



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
330 C Street, S.W.
Washington, D.C. 20201

January 15, 2019

Sent via email: Macarter@equityfwd.org

Re: ACF FOIA 18-F-0152

Dear Ms. Carter:

This is a partial response pertaining to Case No. 18-cv-01509 filed June 26, 2018, relating to the FOIA request 18-F-0152. FOIA request 18-F-0152 pertains to communications to or from Scott Lloyd and numerous individuals listed in the enclosed request.

The Office of Refugee Resettlement conducted a thorough search of their files and located the enclosed 1,084 pages. Information is being released in full on 1,045 pages, withheld in part on 26 pages, and withheld in full on 13 pages in accordance with Exemption b(5) and b(6) of the FOIA. Approximately 126 additional pages are being sent to other departments for consultation and will be returned to the ACF for final release determination.

Exemption 5, 5 U.S.C. § 552(b)(5) protects inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. The exemption protects agency deliberations, both internal and with agency contractors and consultants, attorney-client privileged records and attorney work product. In this case, the withheld information includes pre-decisional discussions within the agency and between agency staff.

Exemption 6, 5 U.S.C. § 552(b)(6) permits a Federal agency to withhold information and records about individuals in "personnel and medical files and similar files, the disclosure of which would constitute a clearly unwanted invasion of personal privacy." The definition of "similar files" has historically been broadly interpreted to include a wide variety of files, and the United States Supreme Court has held that Congress intended the term "similar files" to be interpreted broadly, rather than narrowly. I have analyzed these records and find they meet the threshold requirement of this exemption. In this case, the withheld information consists of predominantly cell phone number of federal employees and the personal information of civilians. Additionally, I have reviewed and weighed the public interest in disclosure of this information against the privacy interest in nondisclosure, and found that the privacy interest outweighs the public's interest in disclosure.

ACF will continue to review and make partial releases of the remaining portions of this request.

Sincerely yours,



Celeste Smith

Director, Freedom of Information Office
Office of Communications
Administration for Children and Families
U.S. Department of Health and Human Services
Washington, D.C.

Enclosures

From:	ACF Media Clips (ACF) </o=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CE7732928C9940438B1362D2C03D4A79-ACFMEDIACLI>
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Subject:	ACF Media Clips for Jan. 3, 2018
Date:	2018/01/03 14:42:38
Priority:	Normal
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ACF Media Clips for Jan. 3, 2018

Child Care

Program

aims to improve early childhood education through day care providers

Improving early childhood education is the goal of a state program that works with day care providers. The program, Step Up to Quality, is operated through a partnership of the Nebraska Department of Health and Human Services and Department of Education.

North Platte Telegraph, NE

Jan. 3, 2018

Why your child's preschool teacher should have a college degree

When the District of Columbia announced in March that it would require an associate's degree for all lead teachers at child

care centers who work with children up to age 5, the reaction was widely negative. Journalist Matthew Yglesias tweeted that the requirement seemed “ill-advised,” while Sen. Ben Sasse, a Republican from Nebraska, described it as “insanely stupid.” As the founding executive director of the Institute for Early Education Leadership and Innovation at the University of Massachusetts Boston, I can tell you that there is nothing “ill-advised” or “insanely stupid” about the D.C. requirement. From an educational standpoint, it makes a lot of sense.

Opinion

WTOP, DC

Jan. 2, 2018

Children, Youth & Families

Building bridges between birth parents, foster parents

Darrington works with foster parents in Ohio, but she’s also part of a growing movement at the national level to bring birth parents and foster parents together, two sides of the child welfare system that haven’t always enjoyed working together closely.

Chronicle of Social Change, CA

Jan. 3, 2017

Breaking the hold of drugs to earn the embrace of her children

“My rock bottom was when my kids got taken from me,” Ms. Darlington said. Her children entered kinship foster care with their grandmother while Ms. Darlington went to a drug-treatment program at the Addicts Rehabilitation Center in Manhattan. She entered on the birthday of her daughter Janice Wright, now 23.

New York Times, NY

Jan. 3, 2017

Planned Parenthood aborted

321,384 babies last year, got \$543 million from taxpayers

Planned Parenthood provided just 3,889 adoption referrals (exactly 1,000 more from the number it put on its last report) and 7,762 “prenatal services” from 2016-2017. That’s one adoption referral for every 83 abortions and prenatal care for one woman for every 239 abortions.

Lifesite News, VA

Jan. 2, 2017

Child Support

Ohio's

child support system: Everyone agrees it's broken. But a fix has taken 25 years – and counting.

In Ohio, child support is calculated based on a formula in state law that combines both parents' incomes then deducts expenses such as taxes, money to live on and spousal support. That adjusted amount determines how much a child should receive. Ohio law outlines how much each parent pays, who provides health insurance and how to handle daycare expenses.

Cincinnati Enquirer, OH

Jan. 2, 2017

Community Services

Mainers struggling during deep-freeze

reach out for help

(featuring ACF)

Penquis is one of several community-level agencies in the state that administer the federal Low Income Home Energy Assistance Program, or LiHEAP. Standard LiHEAP applications can take six weeks or longer to process, she said, but the program’s Energy Crisis Intervention Program, or ECIP, can respond more nimbly. A typical one-time ECIP delivery

to qualified Maine households is 100 gallons of fuel oil or a cord of firewood within 24 hours, she said. But the agency encourages people to sign up for regular LiHEAP eligibility, too, so they won't get caught in a crisis again this winter.

Bangor Daily News, ME

Jan. 3, 2017

Heating bills that make one shiver

(featuring ACF)

We fear that the cold will exhaust the federal funds allotted for this winter's Low-Income Home Energy Assistance Program and hope the state's congressional delegation is prepared to request additional help.

Editorial

Concord Monitor, NH

Jan. 3, 2017

Family Assistance

Immigration, infrastructure and Iran: The President's plans for 2018

House Speaker Ryan, R-Wis., has indicated he'd like to target welfare and entitlements, but Trump and Senate Majority Leader Mitch McConnell, R-Ky., are not on board with all that Ryan wants to do. The Trump administration is reviewing the programs, and the White House is preparing a January executive order related to welfare, according to Politico. NPR's Mara Liasson reports the president "wants to keep his promise not to touch the big, middle-class entitlements — Medicare and Social Security — but he is interested in reforming means-tested programs that target lower-income Americans."

Nevada Public Radio, NV

Jan. 2, 2018

Welfare “reform” might be the next big Republican push

Both President Trump and Speaker Ryan have talked at various points lately about wanting to take up welfare reform....This question of whether there will be a 2019 reconciliation bill is crucial to the question of the 2018 Republican agenda because it would establish the boundaries of the possible. If they do pass a reconciliation bill, Republicans would probably use it to create room for a party-line welfare-reform effort. This would likely amount to a proposal for devolving funding and design flexibility over some of the major federal welfare programs to the states while attaching some work requirements to most of them.

Opinion

Mother Jones, CA

Jan. 2, 2018

Trump, Ryan to push for major welfare system reforms in 2018

President Trump has sided with House Speaker Paul D. Ryan to push for sweeping welfare reforms this year but they will have to persuade a skeptical Senate Majority Leader Mitch McConnell when the three huddle at Camp David over the weekend to set the GOP’s legislative agenda for 2018. Mr. McConnell, Kentucky Republican, is expressing grave reservations about tackling the hot-button issue without bipartisan support that the effort almost certainly will lack.

Washington Times, DC

Jan. 3, 2018

Trafficking

W.Va. officials warn of increased cases of human trafficking

Drug addiction in West Virginia may be causing an increase in sex trafficking. Sometimes family members traffic their children.

Officials say the problem is under reported — making it tough to fight.

National Public Radio, DC

Jan. 3, 2017

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State

capitol dome lit blue for human trafficking prevention

Arizona Gov. Doug Ducey says the State Capitol's dome will be lit blue throughout January for human trafficking prevention month. Ducey says it's an effort to bring greater awareness and attention

to human trafficking, which victimizes vulnerable populations including women, children and impoverished individuals and has impacted nearly 21 million victims worldwide. The Arizona Human Trafficking Council serves as a state and national leader in responding to human trafficking and facilitating systemic change. The council is in partnership with the Governor's Office of Youth, Faith and Family.

Associated Press, AZ

Jan. 2, 2017

South

Carolina attorney general wants to help boost awareness of human trafficking in 2018

Wilson said his office plans to release new data on human trafficking in South Carolina later this week, and he talked about why the state is a prime location for this kind of crime. Wilson said Horry

County is ranked in the top five counties in S.C. for human trafficking. He said it's happening in high-tourism areas and rural areas alike. He believes one main reason for this is South Carolina's position in the country, right between Atlanta and Charlotte.

According to Wilson, those two cities are major hubs for human trafficking. He added that Interstate 95's stretch through South Carolina also fuels this crime.

WMBF, SC

Jan. 2, 2017

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Unaccompanied Alien Children

A righteous campaign against MS-13

Law enforcement substantially disrupted the gang in the United States during the 2000s, but it has made a comeback. The gang's leaders in El Salvador professionalized its U.S. operations. And the flow of so-called unaccompanied children from Central America across the southern border has replenished the gang's ranks; MS-13 members have been among the migrants, and the influx of non-English-speaking young males with no connections to the U.S. provides a ready base of recruitment. This has led to horrifying headlines in places across the U.S. with large Central American populations, from Long Island to Houston to the Washington, D.C., area.

Opinion

National Review, DC

Jan. 3, 2018

Taking away their children won't stop Central American border crossers

(featuring ACF)

Taking away their children will not stop undocumented immigration from Central America. On the contrary, it will send migrants even more deeply into the clutches of criminal smuggling networks. The DHS rationale for separating families is that ratcheting up the punishment against these Central Americans will deter immigration. That assumption is false. Here on the border, we are deeply familiar with the fallacy of punishment as deterrence. Punishment as deterrence doesn't work. A multi-year study of border crossers found that enforcement tactics designed to punish migrants had little effect on stopping migration. Those families will not be deterred from migrating, since the conditions propelling them are unchanged. Rather, they will become even more dependent on criminal smuggling networks, and even more at risk.

Opinion

Hill, DC

Jan. 2, 2017

Some big questions for child welfare, juvenile justice in 2018: Deferred DREAMs, unaccompanied minors

(featuring ACF)

In the final months of the year, the rate of unaccompanied arrivals shot up again, suggesting we could see a return in 2018 to rates that overtaxed the network of providers that HHS contracts with to manage UAC. HHS has already reached out in search of additional shelter beds, and for a 500-bed emergency shelter in Texas. Nobody really likes the way UAC works, certainly not with the increased volume of arrivals since 2014. But the House Judiciary Committee is the only corner of Congress that has consistently championed an overhaul. The committee marked up and approved a bill this year that, in a nutshell, would slow the timeline on ICE handoffs to HHS custody and permit ICE to quickly send Central American unaccompanied minors back home.

Chronicle of Social Change, CA

Jan. 2, 2018

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ERRATA SHEET

Page	Line	Correction
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Page 0010 of 1086

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information and Privacy Act

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ACF Media Clips for March 8, 2018

Child Care

Lawmakers

call for investigations into DHHS's handling of child abuse reports

(featuring ACF)

In 2014, the Legislature's Government Oversight Committee voted to investigate DHHS's child licensing division after a Portland Press Herald investigation revealed evidence that the department waited more than a year to take action against the Sunshine Child Care & Preschool in Lyman after inspectors determined that the co-owner had been "abusive, humiliating and intimidating" to children. Nevertheless, the department still listed the facility as having the highest possible rating on its website four months after it sanctioned the now-shuttered center, according to the Press Herald. A 2014 federal Health and Human Services audit of six state-licensed child care providers also found a number of safety violations in all of the facilities. Four of the six providers it evaluated did not comply with requirements to obtain criminal history and child protection reports.

Rockland Free Press, ME

March 8, 2018

**We
need to change the conversation about moms and work to include other perspectives**

There seems to be no shortage recently of articles and posts calling for affordable child care and paid maternity leave. Rightly so. Women are nearly 47 percent of the U.S. civilian workforce. Of the 74.6 million women in the workforce, more than 70 percent are mothers of children under 18 years of age, and the productivity of women accounts for nearly a quarter of the GDP. Families and children deserve better options, and the U.S. economy would benefit from more family-friendly policies.

Opinion

Washington Post, DC

March 8, 2018

**Tennessee
ranks 43 in women's, children's health; maternal mortality, teen suicide increase**

The cost of child-care for babies increased 41 percent, to 11.6 percent of the median income of married couples.

Knoxville News Sentinel, TN

March 7, 2018

**American Family Budget survey shows why parents
get forced out of cities**

Head up north and you'll find that San Francisco is even more costly for families. The average family needs closer to \$12,000 a month to get by, and housing constitutes about \$3,000 of that. If parents require child care services, that will be almost another \$1,700. When compared to the \$56,000 median family income of most Americans, it makes sense that 50 percent of millennials (i.e. the next generation of parents) who live in the county are actually trying to leave.

Fatherly, NY

March 7, 2018

Lightbridge Academy planning 10 to 15 child-care sites in Central Ohio as well as 500 to 700 jobs

Child-care provider Lightbridge Academy plans to open 10 to 15 locations in Central Ohio in the next three to five years, creating 500 to 700 jobs. It plans on opening three sites by the year's end. Lightbridge is headquartered in New Jersey with franchises in states including Florida and Pennsylvania. Besides Central Ohio, Lightbridge plans to open centers in and around Cincinnati, Cleveland and maybe Dayton, Mark Mele, senior vice president of franchise development, told me.

Columbus Business First, OH

March 7, 2018

Children, Youth & Families

Abstinence-only education making a comeback under Trump

These changes were reflected in a spending deal Congress passed in February. The \$75 million Title V abstinence-only program was renamed “sexual risk avoidance education” (SRAE) and included new requirements that organizations receiving funding emphasize and prioritize the message that waiting until marriage to have sex is the best action. While the programs still have to teach contraception, they can’t distribute it or demonstrate how it’s used. Funding in recent years for these programs has also crept up, rising from \$55 million to \$85 million in fiscal year 2016.

Hill, DC

March 8, 2018

Adopted children fight to keep religious agencies open as LGBT lawsuit seeks to shut them down

Adopted children and foster families told a Michigan court that religious adoption agencies are vital in helping others in situations like their own, as a lawsuit seeks to shut down the agencies because of their stance against same-sex marriage.

Christian Post, DC

March 8, 2018

Column: My adoption agency saved me

In 2005, St. Vincent placed me and my siblings with the Flore family. I quickly came to know them as mom and dad. They were stable and loving — toward each other, and just as importantly, toward me and my siblings. Not only did they give us good food, warm clothes, and cozy beds, they nurtured and cherished us, and gave us a quality education. Finally, I was able to begin real healing. I had a chance to lead a happy life. And in my new family, I've learned what love feels like. Every child in foster care deserves to find a loving home like I did. But because of a desperate shortage of willing families, particularly for minority, older and disabled children, many won't. In Michigan alone there are nearly 13,000 children in foster care.

Opinion

Detroit News, MI

March 8, 2018

Groups call DCFS out for delay of stats

Child advocacy groups are calling out the Department of Children and Family Services for lack of transparency. DCFS hasn't published child abuse and neglect numbers since July. It's something, for the past 35-years, they've done monthly. The issue is gaining attention as months go by without the statistics. It's been roughly eight months since the public has seen data showing how many children are reportedly being abused or neglected statewide.

*WCIL,
IL*

March 7, 2018

**Foster
care bill cleared by Idaho Senate panel**

SB 1341, also known as the Foster Care Improvement Act, would enact a number of reforms to the system, some more dramatic than others. Most notably, the bill would codify

the common judicial practice of keeping siblings together whenever possible, strengthen support services for newly reunified families, clarify priorities when investigating claims of abuse, establish in statute a new system of Citizen Review Panels across the state and create a legislative committee to oversee child protection.

Twin Falls Times-News, ID

March 7, 2018

Inside game: The key players behind Washington's biggest foster care reform in decades
(featuring ACF)

Parents, disproportionately black, are often subjected to trauma-ridden child abuse investigations and the ultimate removal of their children. In 2017, the American Journal of Public Health published a groundbreaking study estimating that 37 percent of all American children will have their parents investigated for child abuse by age 18. The number for black children was 53 percent. Nearly a quarter of the 437,465 children the federal government estimates were in foster care in 2016 are black, though African-Americans only represent 13 percent of the country's general population.

Chronicle of Social Change, CA

March 7, 2018

California bills target lengthy foster-parent approval process

California legislators have introduced two new bills aimed at easing the funding delays facing by thousands of new foster parents in the state, an unforeseen byproduct of the state's foster-care reforms. As the state implements broad changes to its child-welfare system through the Continuum of Care Reform (CCR), one of the biggest challenges has been moving foster parents and relative caregivers through a new approval process.

Los Angeles Daily News, CA

March 7, 2018

Could Mother Teresa operate in America's foster care system?

The ACLU wants to give these faith-based agencies an untenable choice: Renounce your faith, or stop helping children. The most absurd aspect of the ACLU's activism is that in each of the states where it is threatening faith-based adoption agencies, there are secular adoption agencies more than willing to place children in other family arrangements – no one is prevented from fostering or adopting.

Opinion

LifeSite News VA

March 7, 2018

Baltimore to sue feds over cuts to teen pregnancy program

The majority of funding for the health department's programming comes from government sources, with some additional support from local partners like the Abell Foundation and the Aaron and Lillie Straus Foundation. This particular grant was set to span from 2015 to 2020 or a total of \$8.6 million. Wen said several organizations in other jurisdictions across the country — more than 80 in total — with similar programs also saw funding cuts.

Baltimore Business Journal, MD

March 7, 2018

Child Support

Missouri Senate passes bill affecting rapists' parental rights

The proposal, approved 31-1 on Wednesday, would allow judges to terminate a father's parental rights if there was "clear, cogent, and convincing evidence" that he raped the mother, resulting in her pregnancy. The judge would also have to weigh whether termination would be in the child's best interest. Furthermore, the bill would allow a woman to collect child support from the man accused of rape, even if his rights were terminated. But the woman would remain eligible for public assistance even if she did not seek child support. The bill now moves to the House.

KMBZ, MO

March 8, 2018

More on child support assurance: answering a common criticism

Child support assurance should encourage both parents to participate in the child support system. If custodial parents establish an order, the child will be assured of receiving at least the minimum benefit on a regular basis. And noncustodial parents can count on reasonable orders and public support to top-up what they can provide, if necessary (i.e., if their order is less than the minimum benefit). Moreover, a child support guarantee creates a direct public interest in noncustodial parents meeting their obligations because the government would need to make up the difference. This should motivate more consistent attention to a range of policy issues — from the impact of incarceration on earnings, to the value of work supports (such as the EITC) for both custodial and noncustodial parents.

Opinion

American Enterprise Institute, DC

March 8, 2018

Community Services

Lawmakers

expect spending this appropriations season to remain on even keel
(featuring ACF)

Other presidential proposed cuts that the delegation doesn't agree with would be to the Low Income Home Energy Assistance Program, which helps those in need cover the cost of heating and cooling their homes. "A lot of budget hawks have tried to cut it, but it has such strong bipartisan support I just can't see it becoming a victim of budget cuts," Cramer said, adding that the energy companies are behind it. "I think it's one of the most safe items in the budget."

Bismarck Tribune, ND

March 7, 2018

Family Assistance

Wisconsin plans to drug test Medicaid recipients. Here's why it'll be a disaster. (featuring ACF)

ThinkProgress reached out to Wisconsin officials for the second consecutive year to learn about how its drug test process for welfare — or Temporary Assistance for Needy Families (TANF) programs — is going, as the state is now looking to expand the requirement to other government programs like Medicaid, public housing, and food stamps. By way of background, Gov. Scott Walker (R) permitted state officials to drug screen individuals participating in four TANF-funded programs, and the drug testing policy went into effect in July 2016. These requirements only apply to non-custodial parents, and “only a very small subset of [cash welfare] recipients” need to be screened for substance use, according to the communications director for Wisconsin’s Department of Children and Families (DCF).

Opinion

Think Progress, DC

March 8, 2018

D.C. schools expel and suspend poor students more often than their peers (featuring ACF)

“At-risk” students—students experiencing homelessness, enrolled in the Temporary Assistance for Needy Families or Supplemental Nutrition Assistance Program, or under the care of the Child and Family Services Agency—make up 49.9 percent of all students in the enrolled population, yet they made up 84 percent of expulsions in the 2016-2017 school year.

Street Sense, DC

March 7, 2018

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Head Start

Funding

request to help Navajo Head Start approved (*featuring ACF*)

Navajo Nation President Russell Begaye signed a Tribal Council resolution on March 3 to provide approximately \$6.3 million in supplemental funding to help Navajo Head Start. A day before the president signed the resolution, his office issued a press release that explained federal funding to Navajo Head Start had been reduced, and a federal court had denied a preliminary injunction filed on behalf of the program.

Farmington Daily Times, NM

March 7, 2018

Help for Head Start on the

way

(featuring ACF)

The Navajo Nation's beleaguered Head Start program is getting a jump start. Navajo Nation President Russell Begaye an emergency bill that would provide \$6.3 million to the program. Head Start had sought an injunction to prevent the National Head Start program from lopping more than \$6 million from the Navajo program's \$23 million budget. To make sure the Navajo Head Start program continues without interruption, the tribe will allocate emergency funding, the president said. "I will not allow a lapse in service for our children, and I intend to hold the federal government accountable to the Navajo Nation," Begaye said.

Lake Powell Life, AZ

March 7, 2018

Native Americans

Tribes

file opioid lawsuit: Jamestown S'Klallam, Port Gamble S'Klallam, Suquamish tribes take action

The lawsuit blames the opioid epidemic on the pharmaceutical companies and distributors "who made billions of dollars off the epidemic. "The Tribes have seen child welfare

and foster care costs associated with opioid-addicted parents skyrocket; their health services have been overwhelmed; education and addiction therapy costs have substantially increased; and almost every tribal member has been affected,” the complaint says.

*Port Angeles Daily News,
WA*

March 7, 2018

Refugee Resettlement

**Iranian-American minister: Why the
Bible Belt is the perfect place for Muslim refugees**

World Relief, the National Association of Evangelicals’ humanitarian arm and a federal refugee resettlement agency, has observed similar openness among politically conservative Christians as Page has in Dallas. According to Matthew Soerens, director of church mobilization, a bigger factor than living in a red state or blue state is whether or not a person knows refugees in their community. “If you’ve met a refugee—and that term evokes someone you know personally ... —you’re unlikely to believe the rhetoric that refugees are a public safety threat,” he said.

Christianity Today, IL

March 8, 2018

A cooperative farm for refugees joins the new nonprofit economy

There are a variety of nonprofit farms, like Farm Education Inc./Moon in the Pond Farm in Sheffield, Massachusetts and the FarmOn! Foundation in Copake, New York, which were founded to educate the next generation of farmers by working with college students and apprentices or interns. Joining them is Story Hill Farm in Dunbarton, New Hampshire, established by the Organization for Refugee and Immigrant Success (ORIS), that puts its focus on refugee family farmers. ORIS purchased the 56.8-acre farm after two years of fundraising to create a kind of cooperative farm for refugee families. Fourteen families from places like Somalia, Rwanda, Burundi, Congo, and Bhutan farm separate pieces of land of comparable size

and keep the resultant income. The farmers grow approximately 60 different crops, with a split of 40 that are typically served on American tables and 20 that are native to the farmers' home countries.

Nonprofit Quarterly, MA

March 7, 2018

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Trafficking

Senate to consider sex-trafficking bill next

The Senate is expected to consider legislation as early as Monday that is aimed at preventing online sex trafficking and improving actions to hold traffickers accountable. Senate Majority Leader Mitch McConnell told members last week that they will move to the Stop Enabling Sex Traffickers Act after considering the banking bill, two GOP sources tell CNN. The bill passed with overwhelming bipartisan support in the House last week and later received an endorsement from the White House. With 67 Senate cosponsors, it is expected to pass the Senate as well.

CNN, GA

March 7, 2018

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Unaccompanied Alien Children

Sen.

Feinstein wants refugee resettlement head to resign (*featuring ACF*)

Sen. Dianne Feinstein on Tuesday called for Office of Refugee Resettlement Director Scott Lloyd to step down from his post, citing his alleged attempts to block young immigrant women in federal government custody from accessing reproductive health care to which they're legally entitled. In a statement, Feinstein, D-Calif., accused Lloyd of implementing policies at ORR that "directly violate young women's medical privacy rights" and "put these women at real risk of physical danger." Over

the past year, a number of women's rights and civil rights organizations, most notably the American Civil Liberties Union, have spoken out about Lloyd's ability to lead ORR, an arm of the U.S. Health and Human Services agency, citing his strong opposition to abortion based on religious beliefs and his apparent lack of any experience working with refugees. Other organizations, like the National Women's Law Center, have started an online petition demanding Lloyd be removed from ORR.

Law360, NY

March 7, 2018

Dianne Feinstein

demands Trump official involved in Jane Doe cases resign (featuring ACF)

Sen. Dianne Feinstein added her voice Wednesday to the growing chorus calling for the resignation of Scott Lloyd, the Trump administration official who's become the face of the administration's ongoing legal battle over undocumented teens' ability to access abortion while in federal custody. Feinstein is likely the highest-profile official to call for Lloyd's resignation, but she isn't the first. The leaders of the House Congressional Pro-Choice Caucus, called for Lloyd's ouster in February, and Washington Democratic Sen. Patty Murray said last week that Lloyd should resign.

Vice News, NY

March 7, 2018

Trump

administration frees asylum-seeking mom after ACLU suit(featuring ACF)

Days after the American Civil Liberties Union filed a lawsuit to reunite an asylum-seeker who was separated from her 7-year-old daughter, President Donald Trump's administration abruptly released the mother. The woman has been held in a San Diego immigrant detention center since November when she asked federal officials at the border for asylum. She is still waiting to be reunified with her daughter, who was placed in a foster care shelter in Chicago. The case was the latest instance of migrant families being detained and separated at the border. It's not clear how many migrant parents have been charged and separated from their children, as the government has not released statistics on the matter and the process plays out among three large and opaque federal agencies. The Houston Chronicle in November identified 22 such cases, and migrant advocacy groups report hundreds more.

Houston Chronicle, TX

March 7, 2018

Trump's

administration tries to block abortions while trying to break up families

(featuring ACF)

The choice to continue a pregnancy is a deeply personal one. But for undocumented women, imagine weighing the options between motherhood and deportation. The people who are blocking young women from getting abortions are the same people who want to break-up families through deportation tactics. Anti-choice policies always target the most marginalized group to restrict access so thoroughly as to completely block access to abortion services. The Trump administration, particularly the ORR under Director Lloyd, has been clear that this is actually what they aim to do.

Opinion

Hill, DC

March 6, 2018

The end

of abortion? In your dreams, Mike Pence

(featuring ACF)

Young immigrant women in custody of ORR — a federal agency charged with providing them safe shelter and health care — are being blocked by the Trump administration through a new no-abortion policy and by the shocking coercion tactics of ORR Director Scott Lloyd. When his draconian tactics have failed, Lloyd simply ordered the young woman in question to be held hostage to stop her from getting an abortion.

I have no doubt that the treatment of “the Janes” comports with Mike Pence’s vision for all of us. But regardless of his regressive fantasies, *Roe v. Wade* remains the law of the land and abortion remains legal in all 50 states.

While Mike Pence may dream of a future where women’s personal decisions rest solely in the hands of white male religious zealots, we’re not there — yet.

Opinion

Hill, DC

March 5, 2018

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Subject:	IDCM Case Management Activities Overview 6-12Mar2018

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IDCM Case Management Activities Overview

During the reporting period of **March 6, 2018 – March 12, 2018** a total of 2,232 disaster survivors were contacted in the CONUS/OCONUS arrear.

Of this total:

- * Five Hundred and Twenty (520) new cases were opened for IDCM services in MA,CT,IL,FL,PR
- * Two Thousand, Nine Hundred and forty-Five (2,945) Assessments completed in MA,CT,IL,FL,PR
- * One Thousand, Three Hundred and Forty-Eight (1,348) Referrals made to survivors in MA,CT,IL,FL,PR
- * Seventy-Five (75) disaster survivor cases were closed with completed Recovery Plans in MA,CT,IL,FL,PR
- * FEMA, Housing, and Behavioral Health Assistance are trending as the highest referral services made; however, these vary from case management intake locations.
- * Food and Financial Access referrals follow closely behind.

Overall statistics to date for entire disaster support period:

Data Point for all CONUS/OCONUS AORS	Total
Total Disaster Survivor Households Entered in ECMRS	7,285
Total Open/Active Cases	6,369
Total Information Only Cases entered in the ECMRS	25
Total Closed Cases within the ECMRS	891
Males Head of Household	2,512
Females Head of Household	4,769
Other Individuals in Household	9,357

Kind regards,
 Lisa
 Lisa D. Swanson
 Federal (Immediate) Disaster Case Management Program Coordinator

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 Office of the Assistant Secretary (**OAS**) | Office of Human Services Emergency Preparedness & Response
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(FYDIBOHF23SPDLT)/cn=Recipients/cn=8c60582d71ae4b0794be416f46c9813d-Mark Marsha>;
"Martinez, Bernadette (ACF) (CTR) </o=ExchangeLabs/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=14892d0a5ff4495b85b8ac96765d098a-Martinez, B>;
(b)(6) @j-mglobal.com </o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=user5ba96a81>";
"Mason, Byron (OS/ASPR/OEM) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Mathieson, Nancy (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"McAllister, Stephanie (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Mccarrell, Cory (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Meier, Carolyn (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Melendez, Michael (CMS/CMCHO) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Milner, Jerry (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=b184ed67b2b841389ad1b80080916823-Milner, Jer>";
"Moreno, Mr. Pedro (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Murphy, Tim (ACF) <Timothy.Murphy@acf.hhs.gov>";
"Nall, Alvin <alvin.nall@fema.dhs.gov>";
"Negri, Warren A. (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Norman, Maria (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"OS Secretarys Operations Center </o=ExchangeLabs/ou=Exchange Administrative Group
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"Owens, Mr. Javan (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Powell, Debbie A. (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Pratt, Roydon (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group

(FYDIBOHF23SPDLT)/cn=Recipients/cn=b1d2d9ff83ef436594e62fd24fc60dd0-Pratt, Royd>;
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"Riddick, Ms. LeShawnte (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Romero, Dennis O. (SAMHSA/OPPI) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Shorter, Ms. Shandell (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Shoup, Christopher <Christopher.Shoup@fema.dhs.gov>;
"Sierra, Alba (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Strawderman, Thomas R. (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Taylor, Theresa (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Thoma, Nancy (ACF <nancy.thoma@acf.hhs.gov>);
"Thomas, Joyce (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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	(FYDIBOHF23SPDLT)/cn=Recipients/cn=5c0919fe56454c2b8e7c59c38646ebec-Tota, Kenne>; "Tsichlis, Christina (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fc5f3ae321cf4e3cbf039fc480b75fe4-Tsichlis, C>; "Usher, Zachary <Zachary.Usher@fema.dhs.gov>; "Varner, Delores (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=768d2fdf8aaaf404d9e9b21f404e4c9db-Varner, Del>; "Voorhies, Jennifer <Jennifer.Voorhies@fema.dhs.gov>; "Vucic, Nicholas (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ee392694c0e4ff295d461d4266fc9a-Vucic, Nich>; "Wade, Catherine (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0094e16784954fa993377fb9140f1320-Wade, Cathe>; "Wagner, Steven (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3cec05da51ab4c7c978051f08d947637-Wagner, Jam>; "Ward, Robert <robert.ward@fema.dhs.gov>; "Weeden, Daphne (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=45c1aaef4d464778a796a82b13a77f5a-Weeden, Dap>; "Weeks, Cole (HRSA) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e94a8f585767428c84139373f9f68815-cole.weeks.>; "Wells, Tony (ACF) (CTR) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d9f9ca12f2742c0b9cc2b25a1b6c0e0-Wells, Tony>; "Wheatley PhD., Ellen (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cb979345f9c54e20b5ea2f54a866b8f9-Wheatley, E>; "White, Laura (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2e7ff3f1d0ba483990c0f80827410056-Gregg, Laur>; "White, LeBretia (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b9e0eded0846490bbbd5861e49693b27-White, LeBr>; "White, Lisa (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=de2653bc9d234ddb80c2eeef03ca4ef9-White, Lisa>; "Wiener, Steven (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=93a2f9c1eb314bba81387040f587a80b-Wiener, Ste>; "Wilkerson, Darnese (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c479ac2d72ce455f8905adc77ebb82b0-Wilkerson,>; [b](6) [apprioinc.com] </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=usere870fbc7>; "Williams, Carlis (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5ab0567c855f436583ce4c87d5f9e81d-Williams, C>; "Wolfe, Kenneth (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1f392f88a57d44df8c85dd4a2c547ddb-Wolfe, Kenn>; "Wubbenhorst, William (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7ec999c1cf3047518f5efa29809e0d1b-Wubbenhorst>; "Zaborsky, Claudia (ACF) (CTR) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9c2de90afc0a47ee8d2dbbc0c38256dd-Zaborsky, C>; "Zimmerman, Elaine (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=49729b3f4a3c4e2486f34c35100a23ad-Zimmerman,>"
Sent Date:	2018/03/20 16:51:50
Delivered Date:	2018/03/20 16:52:07
Message Flags:	Unread

From:	Huber, Valerie (HHS/OASH) </o=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=382ED2BF51144D19BBFF4C0EE2B0367D-HUBER, VALE>
To:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Subject:	RE: Invitation
Date:	2018/03/22 17:52:50
Priority:	Normal
Type:	Note

Great. Will do

From: Lloyd, Scott (ACF)
Sent: Thursday, March 22, 2018 5:51 PM
To: Huber, Valerie (HHS/OASH) <Valerie.Huber@hhs.gov>
Subject: RE: Invitation

Hi Valerie,

I do know C-Fam—please share.

Thank you,
 Scott

From: Huber, Valerie (HHS/OASH)
Sent: Thursday, March 22, 2018 5:49 PM
To: Lloyd, Scott (ACF)
Subject: Invitation

Hi Scott,

See below. If you're not family with this group, I'm happy to give you some background.
 I'm happy to pass on your email to them, if you'd like, but will not do so without your OK.

Best,
 Valerie

Deliberative and pre-decisional communication

Valerie Huber

Chief of Staff
 Office of the Assistant Secretary for Health (OASH)
 Acting Deputy Assistant Secretary for Population Affairs (OPA)
 200 Independence Avenue, SW
 Washington, DC 20201

202 690 7694
 202 401 8034

From: Lisa Correnti [mailto:lisa@c-fam.org]
Sent: Thursday, March 22, 2018 3:42 PM
To: Huber, Valerie (HHS/OASH) <Valerie.Huber@hhs.gov>
Subject: Scott Lloyd

Dear Valerie,

We are organizing a UN event on migration and we would like to extend an invitation to Scott Lloyd who heads up Office of Refugee Resettlement (ORR). Would you have an email for hi?

Thank you,
Lisa

Lisa Correnti
Executive Vice President
Center for Family and Human Rights (C-Fam)
lisa@c-fam.org
NY: (212) 754-5948
DC: (202) 393-7002

Sender:	Huber, Valerie (HHS/OASH) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=382ED2BF51144D19BBFF4C0EE2B0367D-HUBER, VALE>
Recipient:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Sent Date:	2018/03/22 17:52:49
Delivered Date:	2018/03/22 17:52:50

Date:	2018/03/22 18:05:04
Priority:	Normal
Type:	Contact
Display Name:	Lisa Correnti
Email Display Name:	Lisa Correnti
Email Address:	lisa@c-fam.org

Sent Date: 2018/03/22 18:05:04

From:	Lloyd, Scott (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5F7F5DDB3DAC432CBDD8ACAF8038CFB5-LLOYD, EDWA>
To:	"Tota, Kenneth (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5c0919fe56454c2b8e7c59c38646ebec-Tota, Kenne>"; "Edwards, Lauren (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7341c9c7e7ca45c386d65d0a2e70086a-Edwards, La>"; "Dukes, Amanda (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfa424bec6de43c5a391be4815b31226-Dukes, Aman>"; "Kurkji, Brian (ACF) (CTR) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fabee3bcd11ca4d88b8e39a7a6a4b49e0-Kurkji, Bri>"
Subject:	FW: Scott Lloyd
Date:	2018/03/26 09:59:00
Priority:	Normal
Type:	Note

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Sender:	Lloyd, Scott (ACF) </o=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5F7F5DDB3DAC432CBDD8ACAF8038CFB5-LLOYD, EDWA>
Recipient:	"Tota, Kenneth (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5c0919fe56454c2b8e7c59c38646ebec-Tota, Kenne>"; "Edwards, Lauren (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7341c9c7e7ca45c386d65d0a2e70086a-Edwards, La>"; "Dukes, Amanda (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfa424bec6de43c5a391be4815b31226-Dukes, Aman>"; "Kurkijy, Brian (ACF) (CTR) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=faae3bcd11ca4d88b8e39a7a6a4b49e0-Kurkijy, Bri>"
Sent Date:	2018/03/26 09:59:06
Delivered Date:	2018/03/26 09:59:00

From:	Marriott, Brian (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4AE7A85E29E243969FD8C7803B2AF592-MARRIOTT, B>
To:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Subject:	RE: oped
Date:	2018/03/28 14:26:07
Priority:	Normal
Type:	Note

Here you go.

From: Lloyd, Scott (ACF)
Sent: Wednesday, March 28, 2018 2:10 PM
To: Marriott, Brian (ACF) <Brian.Marriott@acf.hhs.gov>; Wolfe, Kenneth (ACF) <kenneth.wolfe@acf.hhs.gov>
Subject: RE: oped

See below--

From: Marriott, Brian (ACF)
Sent: Wednesday, March 28, 2018 12:27 PM
To: Lloyd, Scott (ACF); Wolfe, Kenneth (ACF)
Subject: RE: oped

Scott,

Thanks for sending. Patrick or Tim Clark will probably reach out to you sometime today now. They have it and are making all the edits and changes so it can be ready to submit to a major paper. I think (b)(5)

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1.

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3. Please work on sending me these as soon as you can so I can forward them to ASPA and Tim. No more work needed on the Op-Ed, unless you hear otherwise from Patrick or Tim C.

Thanks so much!

Marriott

From: Lloyd, Scott (ACF)
Sent: Wednesday, March 28, 2018 10:30 AM
To: Marriott, Brian (ACF) <Brian.Marriott@acf.hhs.gov>; Wolfe, Kenneth (ACF) <kenneth.wolfe@acf.hhs.gov>
Subject: RE: oped

I made a couple minor changes in the attached draft.

I know it's long, but I'm having trouble finding places to cut.

From: Marriott, Brian (ACF)
Sent: Wednesday, March 28, 2018 8:11 AM
To: Lloyd, Scott (ACF); Wolfe, Kenneth (ACF)
Subject: Re: oped

Thanks so much Scott. Ken, per my message last night, hold off on Wa Times for now until we determine if they want to aim for a larger newspaper now. Will let you both know.

Brian Marriott
Director of Communications
ACF/HHS
202-(b)(6)

On: 28 March 2018 02:01,
"Lloyd, Scott (ACF)" <Scott.Lloyd@acf.hhs.gov>wrote:

While we've been hesitant to talk about any of this in the past, it is all pretty much out in documents and discovery. I think the discussion is general enough that it's not identifying any of the kids.

Let me know.

E. Scott Lloyd
Director
Office of Refugee Resettlement
U.S. Department of Health and Human Services
(202) 401-7269
(202)(b)(6) cell)
scott.lloyd@acf.hhs.gov

Sender:	Marriott, Brian (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4AE7A85E29E243969FD8C7803B2AF592-MARRIOTT, B>
Recipient:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Sent Date:	2018/03/28 14:26:05
Delivered Date:	2018/03/28 14:26:07

(b)(6)

Person	Organization	Contact
Andrew Walther, VP communications	Knights of Columbus	Andrew.walther@kofc.org
(b)(6)	Knights of Columbus	(b)(6) @kofc.org
Steve Rasche, attorney, contact for Archbishop Bashar Warda of Erbil, Iraq	Archdiocese of Erbil, Iraq	(b)(6) @gmail.com
(b)(6)	Archdiocese of Erbil, Iraq	(b)(6) @gmail.com
(b)(6)	Archdiocese of Erbil, Iraq	(b)(6) @yahoo.com
(b)(6)	March for Life Action	(b)(6) @hotmail.com
(b)(6)	CUA Law	(b)(6) @law.edu
(b)(6)	Runs a charity working with (b)(6)	(b)(6) @gmail.com
Greg Stanton, President	Genocide Watch	genwatchinterns@gmail.com
Nathaniel Hurd	(b)(6)	Nathaniel.hurd@mail.house.gov
(b)(6)	Hudson Institute	(b)(6) @hudson.org
Jacqueline Isaac, human rights attorney	Roads of Success	info@roadsofsuccess.org

<https://religiousfreedomandbusiness.org/2/post/2016/03/marco-rubio-r-fl-and-anna-eshoo-d-ca-receive-religious-freedom-award.html>

<http://stopthechristiangenocide.org/en/report-photos.html>

NYT

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From:	Federal IDCM (ACF) </o=EXCHANGELABS/ou=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/cn=RECIPIENTS/cn=3FA0D89D6F51410FB2E1057D706E6AF9-FEDERAL IDC>
To:	<p>"Abdi, Abdihakin (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fe48bdd892a24378b6be25ab479c736e-Abdi, Abdih>"; "ACF - DeputyRAList </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f9ee7111a5764ba7bd68dc87265dec1c-ACF - Deput>"; "ACF - Faithbased Liaisons </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03c964e2cf84492386e6c870d974c9f5-ACF R5 Fait>"; "ACF - IOAS Staff </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9687a0a773ba4129b003e0453314c3f7-ACF - IOAS>"; "ACF - R2 All Staff </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=558a014abf784ea98f7f93eabb7d922e-ACF R2 All>"; "ACF - R2 IORA Staff </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=14e11cbd624440dc8eb70726a980d688-R2IORAStaff>"; "ACF - Senior Leadership Officials </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2a17afb23a4348de9ae553745bfca4ab-ACF - Senio>"; "ACF HSWatchOfficer </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=70a78746f59c4dc8ad4b99ad7b22ff84-HSWATCHOFFI>"; "Akwoole, Kenneth (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=22345e1266354cf089e0c6dbab02562d-Akwoole, Ke>"; "Albury, Judith (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=937d00f0e4b64860a6ab1439f2f3e7ce-Albury, Jud>"; "Allender, Mark (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c06999dd2dbc43cea57007fb6f8544ff-Allender, M>"; "Arthur, Kobena (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=576b6d58301542c4af2fbe4331bfa4f9-Arthur, Kob>"; "Barnes, Joshua (OS/ASPR/OEM) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cee27178dbe54a9b8a2ba6b211354b4a-Barnes, Jos>"; "Carter, Clarence (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=06b63742a5e94ecd939dc07928fba3bc-Carter, Cla>"; "Ceruto, Frank (ACF) <frank.ceruto@acf.hhs.gov>"; "Cervera, Maria (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60cad725d2394dde08cd590eba9c9fa-Cervera, Ma>"; "Chalk, Kimberly (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2b43cf6002142efb0640c0f3d9b06f2-Chalk, Kim>"; "Charles.Buckner@fema.dhs.gov"; "Chon, Katherine (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4eec22059f18425ab1c24b84eff27146-Chon, Kathe>"; "Christian, Shannon (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ad469e67c2d4704b0da979dc6a73836-Christian,>"; "Christopher, Lauren (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2ff09fb645884338d380ef4870ba5ea-Christopher>"; "Code, Karen (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=93be8e80ac8b43a7b914b40f18291809-Code, Karen>"; "Cohen, Abby (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=52235357b42f482999b8cc42eac5182f-Cohen, Abby>"; "Colwell, Heather (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7f0a1534a9a84926832eaffcc16f8386-Colwell, He>"; "Cottingham, Kenneth (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e29fee5819d8440681bbf8b72b077007-Cottingham,>"; "Curtiss, Jennifer (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=380daef9db664e0bb039e2c425d1f7e3-Curtiss, Je>"; "Cychosz, Rachel <Rachel.Cychosz@fema.dhs.gov>"; "Daniel, Joshua (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=576f58bf17544999b88a5afa143f3b23-Daniel, Jos>"; "Daniels, Jeff (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Daniels, Jeffrey>"; "Davis, Gregory (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=47b15d866d8040ed839cdfd5c2b7cb89-Davis, Greg>"; "Disque, John (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8357ff16a6e94171b00c08810078254f-Disque, Joh>"; "Drake, Sheila (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group</p>
From:	Federal IDCM (ACF) </o=EXCHANGELABS/ou=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/cn=RECIPIENTS/cn=3FA0D89D6F51410FB2E1057D706E6AF9-FEDERAL IDC>
To:	<p>"Abdi, Abdihakin (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fe48bdd892a24378b6be25ab479c736e-Abdi, Abdih>"; "ACF - DeputyRAList </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=f9ee7111a5764ba7bd68dc87265dec1c-ACF - Deput>"; "ACF - Faithbased Liaisons </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=03c964e2cf84492386e6c870d974c9f5-ACF R5 Fait>"; "ACF - IOAS Staff </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9687a0a773ba4129b003e0453314c3f7-ACF - IOAS>"; "ACF - R2 All Staff </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=558a014abf784ea98f7f93eabb7d922e-ACF R2 All>"; "ACF - R2 IORA Staff </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=14e11cbd624440dc8eb70726a980d688-R2IORAStaff>"; "ACF - Senior Leadership Officials </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2a17afb23a4348de9ae553745bfca4ab-ACF - Senio>"; "ACF HSWatchOfficer </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=70a78746f59c4dc8ad4b99ad7b22ff84-HSWATCHOFFI>"; "Akwoole, Kenneth (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=22345e1266354cf089e0c6dbab02562d-Akwoole, Ke>"; "Albury, Judith (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=937d00f0e4b64860a6ab1439f2f3e7ce-Albury, Jud>"; "Allender, Mark (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c06999dd2dbc43cea57007fb6f8544ff-Allender, M>"; "Arthur, Kobena (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=576b6d58301542c4af2fbe4331bfa4f9-Arthur, Kob>"; "Barnes, Joshua (OS/ASPR/OEM) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cee27178dbe54a9b8a2ba6b211354b4a-Barnes, Jos>"; "Carter, Clarence (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=06b63742a5e94ecd939dc07928fba3bc-Carter, Cla>"; "Ceruto, Frank (ACF) <frank.ceruto@acf.hhs.gov>"; "Cervera, Maria (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=60cad725d2394dde08cd590eba9c9fa-Cervera, Ma>"; "Chalk, Kimberly (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2b43cf6002142efb0640c0f3d9b06f2-Chalk, Kim>"; "Charles.Buckner@fema.dhs.gov"; "Chon, Katherine (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4eec22059f18425ab1c24b84eff27146-Chon, Kathe>"; "Christian, Shannon (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3ad469e67c2d4704b0da979dc6a73836-Christian,>"; "Christopher, Lauren (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2ff09fb645884338d380ef4870ba5ea-Christopher>"; "Code, Karen (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=93be8e80ac8b43a7b914b40f18291809-Code, Karen>"; "Cohen, Abby (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=52235357b42f482999b8cc42eac5182f-Cohen, Abby>"; "Colwell, Heather (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7f0a1534a9a84926832eaffcc16f8386-Colwell, He>"; "Cottingham, Kenneth (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e29fee5819d8440681bbf8b72b077007-Cottingham,>"; "Curtiss, Jennifer (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=380daef9db664e0bb039e2c425d1f7e3-Curtiss, Je>"; "Cychosz, Rachel <Rachel.Cychosz@fema.dhs.gov>"; "Daniel, Joshua (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=576f58bf17544999b88a5afa143f3b23-Daniel, Jos>"; "Daniels, Jeff (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Daniels, Jeffrey>"; "Davis, Gregory (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=47b15d866d8040ed839cdfd5c2b7cb89-Davis, Greg>"; "Disque, John (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8357ff16a6e94171b00c08810078254f-Disque, Joh>"; "Drake, Sheila (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group</p>

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"Duran, Mishaela (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group
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"Miller, Stephen (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7072f262485a43b1a1253e130511f9fc-Miller, Ste>";
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Subject:	Maria 2017 Federal Immediate Disaster Case Management (IDCM) Weekly Report 03.20.18
Date:	2018/03/28 16:55:22
Sensitivity:	Company Confidential
Priority:	Normal
Type:	Note.SMIME.MultipartSigned

Maria 2017 Federal Immediate Disaster Case Management (IDCM) Weekly Report 03.20.18

During the reporting period of March 13, 2018 – March 19, 2018:

- The total daily average of assets performing IDCM in CONUS & OCONUS is **(139)** of which approximately **(90)** are conducting outreach and around **(36)** are providing administrative support
- Four Hundred and Fifty **(450)** new records were opened for IDCM services at an average rate of **(64)** new cases per day over a **(7)** day period
- Ninety-Seven **(97)** disaster survivor records were closed with completed Recovery Plans at an average of **(14)** cases per day over a **(7)** day period
- FEMA, Housing, and Behavioral Health Assistance are trending as the highest referral services made

Snapshot of Disaster Survivor Record data entered into the ECMRS from 12/19/2017 - 3/19/2018 **(90 days)** for DR-4339PM is below:

Record Data	Total

Total Records in ECMRS	7,737
Total Records Opened in ECMRS	6,730
Total Information Only Records	31
Total Closed Records in ECMRS	976

FEMA Tiers	Total	Percentage
Tier 1	948	12.25%
Tier 2	4397	56.83%
Tier 3	2175	28.11%
Tier 4	217	2.80%
Total	7737	100.00%

Title	Definition
FEMA Tier 1	Immediate needs met, stable, some remaining unmet needs; quarterly monitoring to update status or may be closed due to lack of resource for Record need (may be reopened if resource(s) becomes available during period of performance).
FEMA Tier 2	Some remaining unmet needs or in current rebuild/repair status; monthly contact to monitor progress.
FEMA Tier 3	Significant unmet needs, Disaster Recovery Plan being developed and monitored; bi-weekly or weekly contact.
FEMA Tier 4	Immediate and long term unmet needs, may lack capacity, or be highly dependent on social services due to low literacy, elderly, low income, or disabled; weekly contact.

Kind regards,
 Lisa
 Lisa D. Swanson
 Federal (Immediate) Disaster Case Management Program Coordinator

Department of Health and Human Services (**HHS**) | Administration for Children and Families (**ACF**) |
 Office of the Assistant Secretary (**OAS**) | Office of Human Services Emergency Preparedness & Response
 (**OHSEPR**) | 330 C Street, SW | 4th Floor, Room 4006C | Washington, DC 20201 | Office:

Sender:	Federal IDCM (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=3FA0D89D6F51410FB2E1057D706E6AF9-FEDERAL IDC>
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"Murphy, Tim (ACF) <Timothy.Murphy@acf.hhs.gov>;
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[redacted]@USE.SalvationArmy.Org";
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"Jean.McGhee@fema.dhs.gov";
[redacted]@ctunitedway.org";
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"Rita Stewart <Rita.Stewart@ct.gov>";
"sara.echols@fema.dhs.gov";
"Stewart, John <John.Stewart@fema.dhs.gov>";

	"Szymcik, Becky <Becky.Szymcik@fema.dhs.gov>; (b)(6) @ctunitedway.org>; "Williams, Paul R <Paul.Williams6@fema.dhs.gov>"
Sent Date:	2018/03/28 16:52:57
Delivered Date:	2018/03/28 16:55:22
Message Flags:	Unread

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Subject:	Travel Questions (NY/Philly)
Date:	2018/03/29 14:22:14
Start Date:	2018/03/30 10:00:00
End Date:	2018/03/30 10:30:00
Priority:	Normal
Type:	Appointment
Location:	Conference Call 202-774-2300 PC: (b)(6)

Lauren will Host Call

Sender:	Lloyd, Scott (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5F7F5DBB3DAC432CBDD8ACAF8038CFB5-LLOYD, EDWA>; Dukes, Amanda (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFA424BEC6DE43C5A391BE4815B31226-DUKES, AMAN>
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From:	Marriott, Brian (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4AE7A85E29E243969FD8C7803B2AF592-MARRIOTT, B>
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Subject:	RE: oped
Date:	2018/04/02 15:51:45
Priority:	Normal
Type:	Note

NY Times story coming at any time. When I get it, I'll forward.

From: Lloyd, Scott (ACF)
Sent: Wednesday, March 28, 2018 2:28 PM
To: Marriott, Brian (ACF) <Brian.Marriott@acf.hhs.gov>; Wolfe, Kenneth (ACF) <kenneth.wolfe@acf.hhs.gov>
Subject: RE: oped

Thank you. I will reach out to Fr. Denkha and Bazi

From: Marriott, Brian (ACF)
Sent: Wednesday, March 28, 2018 2:27 PM
To: Lloyd, Scott (ACF); Wolfe, Kenneth (ACF)
Subject: RE: oped

See attached:

From: Lloyd, Scott (ACF)
Sent: Wednesday, March 28, 2018 2:10 PM
To: Marriott, Brian (ACF) <Brian.Marriott@acf.hhs.gov>; Wolfe, Kenneth (ACF) <kenneth.wolfe@acf.hhs.gov>
Subject: RE: oped

See below--

From: Marriott, Brian (ACF)
Sent: Wednesday, March 28, 2018 12:27 PM
To: Lloyd, Scott (ACF); Wolfe, Kenneth (ACF)
Subject: RE: oped

Scott,

Thanks for sending. Patrick or Tim Clark will probably reach out to you sometime today now. They have it and are making all the edits and changes so it can be ready to submit to a major paper. I think (b)(6)

Page 0072 of 1086

Withheld pursuant to exemption

(b)(5)

of the Freedom of Information and Privacy Act

(b)(5)

3. Please work on sending me these as soon as you can so I can forward them to ASPA and Tim. No more work needed on the Op-Ed, unless you hear otherwise from Patrick or Tim C.

Thanks so much!

Marriott

From: Lloyd, Scott (ACF)

Sent: Wednesday, March 28, 2018 10:30 AM

To: Marriott, Brian (ACF) <Brian.Marriott@acf.hhs.gov>; Wolfe, Kenneth (ACF) <kenneth.wolfe@acf.hhs.gov>

Subject: RE: oped

I made a couple minor changes in the attached draft.

I know it's long, but I'm having trouble finding places to cut.

From: Marriott, Brian (ACF)
Sent: Wednesday, March 28, 2018 8:11 AM
To: Lloyd, Scott (ACF); Wolfe, Kenneth (ACF)
Subject: Re: oped

Thanks so much Scott. Ken, per my message last night, hold off on Wa Times for now until we determine if they want to aim for a larger newspaper now. Will let you both know.

Brian Marriott
Director of Communications
ACF/HHS

(b)(6)

On: 28 March 2018 02:01,
"Lloyd, Scott (ACF)" <Scott.Lloyd@acf.hhs.gov>wrote:

While we've been hesitant to talk about any of this in the past, it is all pretty much out in documents and discovery. I think the discussion is general enough that it's not identifying any of the kids.

Let me know.

E. Scott Lloyd
Director
Office of Refugee Resettlement
U.S. Department of Health and Human Services
(202) 401-7269
(202) (b)(6) (cell)
scott.lloyd@acf.hhs.gov

Sender:	Marriott, Brian (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4AE7A85E29E243969FD8C7803B2AF592-MARRIOTT, B>
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Sent Date:	2018/04/02 15:51:45

Date:	2018/04/06 19:09:23
Priority:	Normal
Type:	Contact
Display Name:	Susan
Email Display Name:	Susan
Email Address:	susan@c-fam.org

Sent Date:	2018/04/06 19:09:23
-------------------	---------------------

To:	"Susan Yoshihara <susan@c-fam.org>"
Subject:	Re: Meeting with Sisters of Life
Date:	2018/04/09 19:12:59
Priority:	Normal
Type:	Note

Hi Susan,

That sounds great. I will taxi up and meet you there. I will be staying across from the UN at the Hilton.

See you tomorrow,
Scott

On: 08 April 2018 17:10,
"Susan Yoshihara" <susan@c-fam.org>wrote:

Recipient:	"Susan Yoshihara <susan@c-fam.org>"
Sent Date:	2018/04/09 19:12:59
Message Flags:	Unsent

From:	Lloyd, Scott (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5F7F5DDB3DAC432CBDD8ACAF8038CFB5-LLOYD, EDWA>
To:	"Susan Yoshihara <susan@c-fam.org>"
Subject:	Re: Meeting with Sisters of Life
Date:	2018/04/09 19:13:00
Priority:	Normal
Type:	Note

Hi Susan,

That sounds great. I will taxi up and meet you there. I will be staying across from the UN at the Hilton.

See you tomorrow,

Scott

On: 08 April 2018 17:10,

"Susan Yoshihara" <susan@c-fam.org>wrote:

Scott,

They've invited us to the convent or breakfast at 8am which will give us time to get to the UN by 9:30. The address is 320 E. 66th. Where will you be staying?

I will be coming from the West Side via taxi so may be able to pick you up on the way. Otherwise we can meet there.

Mother (b)(6) said she will definitely try to get there. We will meet with Sr. (b)(6) and Sr. (b)(6) from the 66th St. Convent.

My cell is (b)(6)

Best,

Susan

On Fri, Apr 6, 2018 at 11:50 AM, Susan <susan@c-fam.org> wrote:

|

Scott -

That's great. I let them know and also that you need to be at the UN by 0930. Will get back to you on the time and place.

Susan

On Apr 6, 2018 at 11:35, <Scott (Acf) Lloyd>wrote:

Hi Susan,

I'd love to meet with Mother [redacted] (b)(6) I will be there before the event, so that should be no problem.

I am pretty flexible with place and time as I will be arriving in the city the night before.

Just let me know!

God bless,

Scott

From: Susan [mailto:susan@c-fam.org]

Sent: Thursday, April 05, 2018 10:10 PM

To: Lloyd, Scott (ACF)

Subject: Meeting with Sisters of Life

Scott,

Mother (b)(6) would like to meet with you when you come Tuesday. I don't know your travel schedule but are you able to meet before the event - at their convent or at Holy Family across the street from the UN?

Thanks,

Susan Yoshihara

Sender:	Lloyd, Scott (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5F7F5DDB3DAC432CBDD8ACAF8038CFB5-LLOYD, EDWA>
Recipient:	"Susan Yoshihara <susan@c-fam.org>"
Sent Date:	2018/04/09 19:13:00

From:	Edwards, Lauren (ACF) </o=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7341C9C7E7CA45C386D65D0A2E70086A-EDWARDS, LA>
To:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
CC:	"Dukes, Amanda (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfa424bec6de43c5a391be4815b31226-Dukes, Aman>"
Subject:	ECDC update
Date:	2018/04/13 00:01:11
Priority:	Normal
Type:	Note

Hi Scott,

Dr. Teferra from ECDC just sent me some updated information for the ECDC conference. Below are the bios of the panelists you'll be with: representatives from PRM, USCIS, and UNHCR. He also sent the attached agenda.

I updated the draft talking points (also attached) to reflect that UNHCR will also be on the panel (they were a question when I first drafted the remarks).

Let me know if you want me to revise the remarks, or if you need any additional support for the conference.

Lauren

Michelle Alfaro is the acting Senior Protection Officer heading UNHCR's Protection and Solutions Unit in Washington, D.C. Between 2012 and June 2017, she was based in Buenos Aires as the head of the UNHCR protection team covering refugee protection-related issues in Argentina, Bolivia, Chile, Paraguay, Peru and Uruguay. She has worked for UNHCR since 1998 and held various positions in UNHCR Protection and Resettlement Units in Bosnia, Mozambique, Ethiopia, Turkey, Indonesia, Jordan, and Syria. During her 20 years with UNHCR, Ms. Alfaro has worked in various emergency operations, most notably during 2013 in Amman, Jordan, as the Senior Regional Protection Coordinator during the Syrian refugee crisis.

Jennifer B. Higgins is associate director for the Refugee, Asylum and International Operations (RAIO) Directorate at USCIS. She has served in the federal government for over 15 years, focusing her career on balancing the United States' long-standing humanitarian traditions with its national security mandate. She was promoted to the Senior Executive Service in 2014 when she was named the deputy associate director for RAIO. Comprised of more than 1,800 employees, RAIO has a global presence at 25 U.S. embassies and consulates, deploys officers to conduct refugee processing activities in

dozens of locations abroad, and maintains eight asylum offices within the United States. She began her career in federal service in 1999 as a Presidential Management Fellow with the Immigration and Naturalization Service's Office of International Affairs.

Carol Thompson O'Connell became Principal Deputy Assistant Secretary of State for PRM in January 2018. She previously served as Deputy Assistant Secretary for African Affairs from March 2017 to January 2018 and prior to that from 2006 to 2009. In this capacity, Ms. O'Connell oversaw health issues, public diplomacy and public affairs efforts, and Southern African Affairs for the Bureau of African Affairs. Prior to joining the Department of State, Ms. O'Connell served as the Director of the Office of National AIDS Policy (ONAP) at the White House from 2004 to 2006. In doing so, she spearheaded the United States government's response to both domestic and international HIV/AIDS issues, coordinating policy across federal agencies. Ms. O'Connell joined ONAP in November 2002 as the Deputy Director. In this role, she participated in the development and implementation of PEPFAR. In 2001, she joined the Office of the Chief of Staff at the White House, having previously worked on health care and trade policy issues at the U.S. Department of Health and Human Services and the Office of the U.S. Trade Representative, respectively

Sender:	Edwards, Lauren (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=7341C9C7E7CA45C386D65D0A2E70086A-EDWARDS, LA>
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Sent Date:	2018/04/13 00:01:02
Delivered Date:	2018/04/13 00:01:11

Ethiopian Community Development Council, Inc.

Empowering Refugees and Immigrants since 1983.

About ECDC

Headquartered in Arlington, Virginia, the Ethiopian Community Development Council, Inc. (ECDC) was established in 1983 as a non-profit, tax-exempt 501(c)(3) organization with a mission to resettle refugees; promote cultural, educational and socio-economic development programs in the immigrant and refugee community in the United States; and to conduct humanitarian and socio-economic development programs in the Horn of Africa.

ECDC was organized to respond to the needs of a growing Ethiopian community in the Washington, D.C., metropolitan area and across the country. For 35 years, ECDC has been developing and providing programs and services that respond to the needs of clients from diverse cultural backgrounds while focusing on the African newcomer community. In Arlington, Virginia, Silver Spring, Maryland, Denver, Colorado, and Las Vegas, Nevada, ECDC branch offices offer educational, skills building and social service programs that help newcomers become self-sufficient, contributing members of their new homeland.

Since 1991, ECDC has been resettling refugees through its network of affiliated agencies located in Arizona, California, Colorado, Florida, Illinois, Massachusetts, Maryland, Missouri, Nebraska, Nevada, North Carolina, Tennessee, and Texas. Regionally and nationally, ECDC engages in efforts to increase public awareness about domestic and international issues affecting the lives of African refugees and immigrants; provides technical assistance to community-based organizations; and has taken a leadership role in creating a network among African community organizations around the country.

Internationally, ECDC focuses on cultural, educational development, and historic preservation activities in Ethiopia and maintains an office in Addis Ababa, Ethiopia.

Support for ECDC is derived from individual contributions, in-kind donations, corporations, foundations, faith-based organizations, and grants from federal, state, and local government agencies.

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Welcome

I am delighted to welcome you to ECDC's 24th National Conference. This year's conference is titled *U.S. Refugee Protection: Reflecting on the Past and Preparing for the Future*. Plenary and concurrent sessions will examine the challenges facing refugees in the current environment. We will receive updates on changes in policies and procedures being enacted by key federal, state, and local agencies involved in responding to resettlement needs and providing reception and placement services for refugee and immigrant newcomers. We will gain information and inspiration from leaders of local community-based organizations, as they encourage and support newcomers with creative initiatives to help them gain economic security and independence. And we will honor and celebrate those who have become champions of survival, adaptation, and achievement. To program participants, conference planners, generous sponsors, and all who have contributed to making this event possible, I extend a sincere thank you.

Tsehaye Teferra, Ph.D.
President and CEO

ECDC would like to thank the following organizations for their generous support of this year's conference:

- The Alliance
- American Red Cross
- HSBC
- International Rescue Committee
- Lutheran Immigration and Refugee Service
- Nashville International Center for Empowerment
 - RefugePoint
- U.S. Committee for Refugees and Immigrants
- Virginia Foundation for the Humanities

About ECDC's Annual Conference

Now in its 24th year, ECDC's annual national conference is recognized as a unique event dedicated to refugee and immigrant issues in the United States. The conference is part of ECDC's public education efforts, reflecting our ongoing commitment to create sustained awareness of and support for refugee and immigrant needs locally and globally. These efforts are designed to promote cultural, educational, and socio-economic well-being that ultimately results in helping newcomers to the United States become active and productive members of their communities.

Each year, ECDC's conference features distinguished speakers on current topics and issues of interest. National leaders in refugee affairs, policy makers, and academics meet to exchange ideas and share insights with participants. Leaders and members of local and national community organizations share best practices experiences, while federal partners and international humanitarian organizations provide important updates. The conference facilitates this networking with the aim of strengthening resettlement programs and services and providing an opportunity for professional renewal and fellowship among agencies and advocates of refugee and immigrant causes.

Conference Theme

With the Refugee Act of 1980, Congress established the United States refugee resettlement program and declared it to be the "historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands." Almost 40 years later, refugee resettlement in the United States and other protection mechanisms for displaced populations face uncertainty.

At ECDC's 24th annual conference, panel discussions and workshops will give participants a deeper understanding of the historical context of the United States' commitment to refugee protection and resettlement, while enabling them to draw upon lessons from the past to prepare for challenges of the future. The goal is to analyze the current refugee narrative with the aim to find ways collectively to educate the public, and advocate and enhance support for refugees.

Wednesday, April 18, 2018

7:30 - 8:30 a.m.	Registration & Continental Breakfast	Foyer
8:30 - 8:45 a.m.	Welcoming Remarks Tsehayte Teferra, Ph.D., President and CEO <i>ECDC</i>	Ballroom
8:45 - 9:30 a.m.	Keynote Address Eric Schwartz, President <i>Refugees International</i>	Ballroom
9:30 - 9:45 a.m.	Break	
9:45 - 11:00 a.m.	Migration Trends and the Future of Refugee Protection Phillip Connor, Senior Researcher <i>Pew Research Center</i> Giulia McPherson, Director of Advocacy and Operations <i>Jesuit Refugee Service</i> Mark Yarnell, Senior Advocate <i>Refugees International</i>	Ballroom
11:00 - 11:30 a.m.	Break	
11:30 a.m. - 1:00 p.m.	Concurrent Sessions	
Session A	Refugee Leadership in Building Community Adamou Mohamed, Grassroots Organizer <i>Church World Service (CWS)</i>	Marshall
Session B	Promoting Career Advancement Opportunities For All Clients Nicole Redford, Program Manager <i>Higher</i>	Pendleton
Session C	Utilizing CORE Resources for More Effective Cultural Orientation Jason Crislip, Director <i>Cultural Orientation and Resource Exchange (CORE)</i> Kate Steiger, Communications Specialist <i>CORE</i>	Wythe
1:00 - 2:00 p.m.	Lunch	
2:00 - 3:30 p.m.	Concurrent Sessions	
Session A	Using Data to Tell Your Story: Five Steps for Data-Driven Public Outreach Jaime Costigan, Technical Advisor <i>International Rescue Committee (IRC)</i> Margaret Gibbon, Program Officer <i>IRC</i>	Marshall

Wednesday, April 18, 2018 (Continued)

Session B	Meeting the Unique Needs of Immigrant and Refugee Youth Tiara Barnwell, Placement and Program Development Coordinator <i>United States Conference of Catholic Bishops (USCCB)</i> Kylie Diebold, Children's Services Specialist <i>USCCB</i> Marianela Macedo, Counselor and Group Facilitator <i>USCCB</i>	Pendleton
Session C	Embracing an Entrepreneurial Spirit During Changing Times Dan Stoecker, CEO <i>The Alliance</i>	Wythe
3:30 - 4:00 p.m.	Break	
4:00 - 5:15 p.m.	Challenging the Refugee Narrative Sam Eskenazi, Director <i>Coalition for the National Museum of the American People</i> Angelina Mendes, Research Assistant <i>George Mason University</i> <i>Center for Narrative and Conflict Resolution</i> Chris Partridge, Associate Registrar <i>Georgetown University</i>	Ballroom
5:30 - 8:30 p.m.	Refugee Stories Library Event	Courtyard

Thursday, April 19, 2018

7:30 - 8:30 a.m.	Registration & Continental Breakfast	Foyer
8:30 - 9:45 a.m.	Refugee Policy and Programming Updates Michelle Alfaro, Senior Protection Officer <i>UNHCR</i> Jennifer Higgins, Associate Director Refugee, Asylum and International Operations Directorate <i>U.S. Citizenship and Immigration Services (USCIS)</i> Scott Lloyd, Director <i>Office of Refugee Resettlement (ORR)</i> Carol O'Connell, Principal Deputy Assistant Secretary <i>Bureau of Population, Refugees, and Migration (PRM)</i>	Ballroom
9:45 - 10:00 a.m.	Break	
10:00 - 11:15 a.m.	Concurrent Sessions	
Session A	Customer Service and Building Partnerships in the Community Emi Ramirez, Community Relations Officer <i>USCIS</i> Kate Syfert, Acting Chief, Community Relations Branch <i>USCIS</i> Ebony Turner, Community Relations Officer <i>USCIS</i>	Marshall
Session B	Understanding Immigrant and Refugee Health Determinants Mark Edberg, Director <i>Avance Center at George Washington University</i> John Ujwok, Health Program Manager <i>Nashville International Center for Empowerment</i>	Pendleton
Session C	Mental Health and Forced Marriage in Refugee Communities Dina Baky, Program Associate <i>Tahirih Justice Center</i> Nouf Bazaz, Senior Fellow <i>World Organization for Resource Development and Education</i> Casey Swegman, Program Manager <i>Tahirih Justice Center</i>	Wythe
11:15 - 11:30 a.m.	Break	
11:30 a.m. - 1:00 p.m.	Concurrent Sessions	

Thursday, April 19, 2018 (Continued)

Session A	Refugees Right to Work: Civil Rights Protections and Resources Sara-Daisy Dygert, Outreach Coordinator <i>Immigrant and Employee Rights Section, Department of Justice</i>	Marshall
Session B	Mental Health First Aid Training for Refugee Community Leaders and Refugee-Serving Staff Nancy Kelly, Public Health Advisor <i>Substance Abuse and Mental Health Services Administration (SAMHSA)</i> Curi Kim, Director, Division of Refugee Health <i>ORR</i> Parangkush (PK) Subedi, Health Program Analyst <i>ORR</i>	Pendleton
Session C	Challenges to the Economic Integration of Refugees: A Review of Findings from IRC and Upwardly Global Lauren LaVare, Employment Service Manager <i>Upwardly Global</i> Kasra Movahedi, Director, Center for Economic Opportunity <i>IRC</i>	Wythe
1:00 - 2:00 p.m.	Lunch	Ballroom
2:00 - 3:15 p.m.	Concurrent Sessions	
Session A	Using Music Therapy to Support Refugees Janelle Junkin, Co-Founder <i>Unlock Ngenuity</i> Amy Bliss Tenney, Baltimore Community Fellow <i>Open Society Institute</i>	Marshall
Session B	Redefining Economic Inclusion Opportunities for Refugees Ashley David, Program Coordinator, ORR Microloan Program <i>Enterprise Development Group</i> Belay Embaye, Microenterprise Program Manager <i>Office of Refugee Resettlement</i>	Pendleton
Session C	Empowering Immigrant Communities to Stop TB Rachel Kidanne, Nursing Supervisor, TB Program <i>Arlington County Public Health Division</i> Dr. Gloria Addo-Ayensu, Director of Health <i>Fairfax County Health Department</i> Sara Bailey, Nurse Manager, TB Clinical Branch <i>Fairfax County Health Department</i>	Wythe
3:15 - 3:30 p.m.	Break	

Thursday, April 19, 2018 (Continued)

3:30 - 4:30 p.m.	Public Outreach and Community Engagement Loren Schmidt, Development/Digital Fundraising Officer <i>U.S. Committee for Refugees and Immigrants</i> Kenneth Speicher, Executive Committee Member <i>NOVA Friends of Refugees</i> Manar Waheed, Legislative and Advocacy Counsel <i>American Civil Liberties Union</i>	Ballroom
4:30 - 4:45 p.m.	Closing Remarks	Ballroom
7:15 - 11:00 p.m.	Annual Banquet	Ballroom

ANNOTATED AGENDA

WEDNESDAY, APRIL 18, 2018

7:30 - 8:30 a.m. **Registration and Coffee**

8:30 - 8:45 a.m. **Welcoming Remarks**

Tsehay Tefera is the founder, president, and CEO of the Ethiopian Community Development Council (ECDC), Inc., which was established in 1983. His leadership and vision have shaped ECDC from a start-up agency to a major community-based organization. A native of Ethiopia, Dr. Tsehay Tefera received his undergraduate degree from Haile Selassie I University in Addis Ababa. He then earned an M.S. in Applied Linguistics and a Ph.D. in Sociolinguistics from Georgetown University in Washington, D.C., where he also served as a Research Associate in the School of Languages and Linguistics. In 2013, Dr. Tefera was selected as an Outstanding American by Choice by the U.S. Citizenship and Immigration Services and as a White House Champion of Change in 2012.

8:45 - 9:30 a.m. **Keynote Address**

Eric Schwartz became President of Refugees International in June 2017. He has had a three-decade career focused on humanitarian and human rights issues. Between 2009 and 2011, he served as U.S. Assistant Secretary of State for Population, Refugees, and Migration. He was the senior human rights and humanitarian official at the National Security Council during the Clinton administration, managing humanitarian responses to crises in Asia, Africa, the Middle East, and Europe. Just prior to arriving at Refugees International, Mr. Schwartz served a six-year term as Dean of the Hubert H. Humphrey School of Public Affairs at the University of Minnesota. He holds a law degree from New York University School of Law, a Master's of Public Affairs degree from the Princeton University Woodrow Wilson School of Public and International Affairs, and a Bachelor of Arts degree with honors from the State University of New York at Binghamton.

9:30 - 9:45 a.m. **Break**

9:45 - 11:00 a.m. **Migration Trends and the Future of Refugee Protection**

This panel will provide an overview of refugee flows in major hotspots while discussing challenges of refugee protection around the world. Panelists will discuss different refugee resettlement and protection models and future trends in this area.

Phillip Connor is a senior researcher at Pew Research Center. He is an expert on international migration, immigrant integration and immigrant religion in the United States, Canada and Europe. Connor prepares reports on immigration and religion, consults with demographic and public opinion researchers at the Center on migration aspects of their work, and analyzes data. Before joining Pew Research Center, Connor received his doctorate in sociology at Princeton University. He was the lead author of the Center's reports *Faith on the Move* and *Still in Limbo: About a Million Asylum Seekers Await Word on Whether They Can Call Europe Home*.

Giulia McPherson is the Director of Advocacy and Operations at Jesuit Refugee Service/USA. She develops and promotes policy positions related to refugees, asylum seekers and internally displaced persons; leads a community engagement program to educate and mobilize advocates; and oversees JRS' institutional operations. Prior to joining JRS in 2015, Giulia was a member of CARE USA's Policy and Advocacy team for 11 years, most recently as Director of Citizen Advocacy. She has extensive experience in policy analysis, government relations and communications in the international humanitarian and development sectors. Giulia has a Bachelor's degree in Political Science from Villanova University and a Master's in International Development Studies from The George Washington University.

WEDNESDAY, APRIL 18, 2018 (Continued)

Mark Yarnell is the UN Liaison and Senior Advocate at Refugees International (RI). Mark has led field assessments to Somalia, Kenya, Ethiopia, South Sudan, and the Central African Republic, as well as conducted research in Burkina Faso, Niger, and Senegal. Mark has testified before the US Congress Tom Lantos Human Rights Commission and been a guest on NPR, PBS, BBC, Al Jazeera, and CBC. Prior to joining RI, Mark was a Stimson Center Congressional Fellow, based in the office of Senator Richard Lugar. He has worked in the Democratic Republic of Congo as a field officer with Merlin, a medical relief organization, and as a food security consultant for Oxfam. Additionally, he was a program associate at the National Democratic Institute for International Affairs and a senior program associate at the Unitarian Universalist United Nations Office. Mark earned a Master of Science in Foreign Service degree from Georgetown University and was a teaching assistant to former Secretary of State Madeleine Albright. He grew up in Ottawa, Canada.

11:00-11:30 a.m. **Break**

11:30 a.m.- 1:00 p.m. **Concurrent Sessions**

Session A **Refugee Leadership in Building Community**

This workshop will focus on how organizations serving refugees can prepare refugee and immigrant leaders to be at the forefront of advocating for their communities. Presenters will provide an update on the current issues impacting resettlement and refugee communities. Participants will learn the tools they need to engage refugees and immigrant more in civic engagement activities. Participants will also hear from refugee leaders how they are changing the narrative one city at a time; and have the opportunity to ask questions. Resources about how participants can be actively involved in advocacy activities in support of refugee resettlement will be provided.

Adamou Mohamed is the Grassroots Organizer with the Immigration and Refugee Program at Church World Service. In his role, Adamou leads many refugee leadership development, community organizing and civic engagement workshops and coordinates refugee and immigrant leaders advocacy efforts in key states lifting up their issues. He facilitates events and meetings that promote the welcome of refugees and immigrants in multiple states. Adamou holds a Master's in International Studies from NC State University, Raleigh.

Mustafa Nuur is a former refugee from Somalia, living in Lancaster, Pennsylvania. He is the Director of Marketing at a marketing and web development company that works with more than 14 companies nationwide. He contributes his time coaching local refugee youth in pursuing their education, and speaks with local religious groups and school age youth about their roles in welcoming refugees. He attended a White House Refugee Integration event in 2016 about welcoming refugees. He is a recipient of the 2016 Award for Pennsylvania's Refugee Rising Star at the Annual State Refugee Consultation in State College Pennsylvania. Mustafa recently won the top prize with his business model of selling refugee cultural experiences in Lancaster's Great Social Enterprise project.

Clara Hart is a former refugee from Mozambique. She now lives in Sioux Falls, South Dakota. Shortly after her arrival, she started participating in many civic and volunteer organizations and co-founded the Refugee Women's Association of Sioux Falls. Clara has run for political office twice. She is involved in the United Way, League of Women Voters, and the Sioux Falls Regional Emergency Medical Services Authority. Clara is currently the Refugee Congress delegate for South Dakota and the Chair of the Advisory Board. She is running for a city council seat in 2018 in the City of Sioux Falls.

WEDNESDAY, APRIL 18, 2018 (Continued)

Promoting Career Advancement Opportunities For All Clients

This session will offer employment service providers the skills and training necessary to promote more robust career planning with all clients that help providers not only place clients in employment quickly, but also provide pathways for career growth, wage increases, skills training/recertification, in addition to increased opportunities for client participation in the career planning process.

Nicole Redford joined Higher in November 2016. Previously, Nicole was the Employment Coordinator for the U.S. Committee for Refugees and Immigrants (USCRI) at their North Carolina field office, overseeing four federal and state employment programs. Nicole has experience working as a job developer, case manager, employment program coordinator and in other areas of resettlement. At USCRI of N.C., she started the agency's first job upgrade program, securing grants and private donations to keep the program staffed. Nicole has a Master's in Global Affairs from New York University.

Utilizing CORE Resources for More Effective Cultural Orientation

The Cultural Orientation Resource Exchange (CORE) will lead participants through an interactive presentation around CORE's activities and products. Participants will take a deeper dive into CORE's resources through a treasure hunt that allows them to navigate the website and resources. This will be followed up with a guided discussion on how the resources can be used in their work. CORE will also discuss a Community of Practice (CoP) as a way to communicate and collaborate with ECDC's CO network.

Jason Crislip is an experienced educator, trainer, and program manager, who has nearly 15 years of experience in the U.S. Refugee Admissions Program, most recently with the Resettlement Support Center (RSC) for East Asia in Bangkok, Thailand, where he launched a Cultural Orientation program that has served some 65,000 refugees. During his time with the RSC, he also developed a comprehensive curriculum and innovative Cultural Orientation monitoring and evaluation system. Jason has worked in Ghana, first as a Peace Corps Volunteer educator, then with the Overseas Processing Entity, resettling refugees to the U.S. from West Africa. He holds a degree in Education from the University of Akron, Ohio.

Kate Steger is a communications specialist with more than 15 years of international development, non-profit management, and teaching experience. She manages the communications and assessment strategies for CORE as well as the refugee communications project. Before coming to CORE, she worked as a communications specialist in health systems strengthening in Kenya. She has also worked with refugee and immigrant populations in non-profit community-building organizations in Minnesota and has taught English as a Second or Foreign Language in the U.S., Taiwan, and China. She holds a Master of Public Health degree from Boston University, a Master's in International Studies from the University of Minnesota, and a Bachelor's in English from the University of Kansas.

1:00-2:00 p.m. **Lunch**

2:00-3:30 p.m. Concurrent Sessions

Session A Using Data to Tell Your Story: Five Steps for Data-Driven Public Outreach & Community Engagement

The session will cover how to: (1) Define monitoring and evaluation questions (what are the stories we want to tell, why, and to whom?) (2) Determine what data can be used to answer these questions and tell these stories (3) Determine where and how we can collect this data (do we already collect it?) (4) Plan how to present the data, including through effective data visualization (5) Use an effective data management structure (Are our spreadsheets structured to help us learn what we need to learn and share that information with those who should hear it?).

WEDNESDAY, APRIL 18, 2018 (Continued)

Margaret (Meg) Gibbon is a Program Officer for the Monitoring and Evaluation Technical Assistance (META) Project at the IRC. META builds the capacity of refugee service providers in the U.S. to collect, manage, analyze and use data to make better program decisions and improve outcomes for clients. Meg has been with IRC U.S. Programs since 2014, focusing on grant management, data analysis, and business development. She holds an Master's in French from Middlebury College, specializing in Francophone Society, and a Bachelor's in Religion from Barnard College, specializing in Islam.

Jaime Costigan is the Design, Monitoring and Evaluation Technical Advisor for IRC's U.S. Programs. As IRC's Senior Monitoring for Action Coordinator, Jaime led IRC efforts to improve the quality and use of data and worked to put processes in place to shift the organizational culture from monitoring of action to monitoring for action. Previously, with the Child Protection technical unit, she supported programs in countries including Tanzania, Uganda, Lebanon, Turkey, and Liberia. She has also worked in the U.S. as a domestic violence advocate, providing case management and crisis support, facilitating domestic violence education programs, and advocating with service providers for culturally sensitive approaches to addressing GBV in refugee and immigrant communities. Jaime has a Master's in Coexistence & Conflict and a Master's in Sustainable International Development from the Brandeis University Heller School for Social Policy and Management.

Session B

Meeting the Unique Needs of Immigrant and Refugee Youth

This presentation provides multiple perspectives on the unique strengths and needs of refugee and migrant youth. You will hear from a direct service staff that delivers case management and counseling services to this population, and representatives from a national agency that oversees specialized programs for refugee and migrant youth. Participants will learn about the importance of promoting cultural adjustment and integration, addressing discrimination and bullying, and nurturing family connections. Concrete strategies to implement these priorities will be highlighted.

Tiara Barnwell is a graduate social worker who has practiced in the Washington, DC metro area in the field of international child welfare since 2012. She currently serves as Placement and Program Development Coordinator with the US Conference of Catholic Bishops' Department of Migration and Refugee Services, where she provides capacity development support, training, and case placement oversight to foster care programs that serve unaccompanied immigrant and refugee children throughout the United States. Previously, she has worked in the fields of international adoption, family reunification services for unaccompanied immigrant youth, and cross-border child welfare and family reunification.

Kylie Diebold joined the United States Conference of Catholic Bishops' Department of Migration and Refugee Services in July 2017. She currently serves as a Children's Services Specialist providing programmatic oversight, technical assistance, and training to a nationwide network of foster care programs designed for unaccompanied refugee and migrant children. Prior to this, Ms. Diebold held positions in youth development and direct service practice with refugee and migrant youth. Ms. Diebold holds a Bachelor of Arts in Political Science and International Studies from the University of Missouri, Columbia and a Master of Social Work from the University of Maryland, Baltimore.

Marianela R. Macedo is a native of Peru and has lived in the United States for over 25 years. Marianela has worked for Commonwealth Catholic Charities as case manager for the unaccompanied children (UC) and unaccompanied refugee minors (URM) foster care programs for five years. Her experience as a case manager motivated her to accept a position as counselor and group facilitator for the UC and URM youth. Marianela is currently working to obtain her License in Clinical Social Work and work as a full-time counselor. Her goal is help immigrants to adapt holistically to their new environment as well as ease the effects of their trauma.

WEDNESDAY, APRIL 18, 2018 (Continued)

Session C

Embracing an Entrepreneurial Spirit During Changing Times

This session will provide strategies for sustaining and strengthening your organization while serving refugees during changing times. The session will focus on: Staying true to your mission while embracing a paradigm shift; Restating how you accomplish your mission; and Diversifying your operating resources - funding, partnerships. Participants will be motivated to return to their communities and take action to uncover new strategies and resources to sustain and grow their organizations ability to serve refugees they welcome into their community.

Dan Stoecker is the CEO of the Alliance, a Houston-based non-profit organization that welcomes and empowers refugees, immigrants, and underserved residents who face financial, educational, health, language or cultural barriers to realizing their dreams. Prior to entering the civic sector in 2005, his professional background included over 20 years of private sector business development and marketing management experience in the telecommunications and media industries with Fortune 50, INC. 100, small businesses and start-up ventures.

3:30 - 4:00 p.m. Break

4:00 - 5:15 p.m. Challenging the Refugee Narrative

This panel will examine current narratives about refugees and challenge rhetoric that depicts refugees in categories of two extremes: Enemies to national security or victims who were mistreated. In the current environment, a sense of humanity and social agency is often absent in the characterization of refugees. Through the an examination of how past immigrants have reclaimed their individual identities, panelists will shatter common perceptions of the refugee experience.

Sam Eskenazi is the director of the Coalition for the National Museum of the American People. He is the former Director of Public Information for the United States Holocaust Memorial Museum. The Coalition, started in 2009, now consists of 136 scholars and 238 ethnic, nationality and minority organizations from more than 70 different ethnic, nationality, and minority groups. Sam previously served as the director of public information for the United States Holocaust Memorial Museum for eight years. His first federal job was as the first director of public affairs for the Institute of Museum Services. He served as an editor of the magazine Perspectives at the U.S. Commission on Civil Rights and at two Treasury Department agencies. He was in the U.S. Army, including a year in Vietnam, where he led a 75-man platoon.

Angelina Mendes, a native of Guyana, is currently pursuing her Ph.D at the School for Conflict Analysis and Resolution at George Mason University. She graduated Magna Cum Laude from the University of Ottawa with an honors BSocSc in International Development and Globalization and then went on to complete her Master of Science with distinction in Sustainable Development and Project Management from the University of Leeds in England. She currently works on peacebuilding grant initiatives and programming geared towards refugees at the Center for World Religions, Diplomacy, and Conflict Resolution in Arlington. Her areas of interest include forced migration, refugee protection and integration, ethnic conflict, psychosocial trauma and healing, gender, nonviolent resistance and peacebuilding, sustainable development, consciousness raising, and post conflict reconciliation.

Christopher Partridge received his doctorate in Anthropology from American University in 2017. He studied refugees living in North Carolina (within the Research Triangle) from Burma, Colombia, Democratic Republic of the Congo, Iraq, and Somalia. More specifically, the epicenter of his research was the hypothesis that refugees' pressing need for early employment tended to depress their long-term career aspirations. Dr. Partridge also previously worked as a Program Coordinator and Resettlement Specialist for World Relief in Raleigh, North Carolina, and he was an adjunct professor at both American University and Montgomery College.

8:30 - 9:45 a.m.

Refugee Policy Updates

This panel will feature leaders from the UN Refugee Agency (UNHCR), U.S. Citizenship and Immigration Services (USCIS), the Office of Refugee Resettlement (ORR), and the Bureau of Population, Refugees, and Migration (PRM). These leaders will provide updates discussing programming and policies affecting refugees from their respective agencies.

Michelle Alfaro is the acting Senior Protection Officer heading UNHCR's Protection and Solutions Unit in Washington, D.C. Between 2012 and June 2017, she was based in Buenos Aires as the head of the UNHCR protection team covering refugee protection-related issues in Argentina, Bolivia, Chile, Paraguay, Peru and Uruguay. She has worked for UNHCR since 1998 and held various positions in UNHCR Protection and Resettlement Units in Bosnia, Mozambique, Ethiopia, Turkey, Indonesia, Jordan, and Syria. During her 20 years with UNHCR, Ms. Alfaro has worked in various emergency operations, most notably during 2013 in Amman, Jordan, as the Senior Regional Protection Coordinator during the Syrian refugee crisis.

Jennifer B. Higgins is associate director for the Refugee, Asylum and International Operations (RAIO) Directorate at USCIS. She has served in the federal government for over 15 years, focusing her career on balancing the United States' long-standing humanitarian traditions with its national security mandate. She was promoted to the Senior Executive Service in 2014 when she was named the deputy associate director for RAIO. Comprised of more than 1,800 employees, RAIO has a global presence at 25 U.S. embassies and consulates, deploys officers to conduct refugee processing activities in dozens of locations abroad, and maintains eight asylum offices within the United States. She began her career in federal service in 1999 as a Presidential Management Fellow with the Immigration and Naturalization Service's Office of International Affairs.

Scott Lloyd is the Director of ORR. Mr. Lloyd joined ORR from the Knights of Columbus, a Catholic fraternal and charitable organization, where he served as an attorney in the Public Policy office. In that capacity, he helped shape the organization's humanitarian response and led its policy advocacy on behalf of the ethnic and religious minorities who are victims of ISIS. Before joining the Knights of Columbus, he worked in private practice, at the Department of Health and Human Services, and on Capitol Hill.

Carol Thompson O'Connell became Principal Deputy Assistant Secretary of State for PRM in January 2018. She previously served as Deputy Assistant Secretary for African Affairs from March 2017 to January 2018 and prior to that from 2006 to 2009. In this capacity, Ms. O'Connell oversaw health issues, public diplomacy and public affairs efforts, and Southern African Affairs for the Bureau of African Affairs. Prior to joining the Department of State, Ms. O'Connell served as the Director of the Office of National AIDS Policy (ONAP) at the White House from 2004 to 2006. In doing so, she spearheaded the United States government's response to both domestic and international HIV/AIDS issues, coordinating policy across federal agencies.

Ms. O'Connell joined ONAP in November 2002 as the Deputy Director. In this role, she participated in the development and implementation of PEPFAR. In 2001, she joined the Office of the Chief of Staff at the White House, having previously worked on health care and trade policy issues at the U.S. Department of Health and Human Services and the Office of the U.S. Trade Representative, respectively.

THURSDAY, APRIL 19, 2018 (CONTINUED)

9:45 - 10:00 a.m. Break

10:00 - 11:15 a.m. Concurrent Sessions

Session A Customer Service and Building Partnerships in the Community

USCIS will provide an overview of public education materials and tools available to immigrants, including resources related to naturalization and customer service. We will also share information aimed at protecting vulnerable populations, including information about immigration scams and fraud, and updates on Temporary Protected Status.

Kate Syfert is the Acting Chief for the Community Relations Branch in the Public Engagement Division for the USCIS Customer Service and Public Engagement Directorate (CSPED). Kate began her career with USCIS in 2005 at the Denver Field Office as an adjudications officer. She has completed the Graduate School's Executive Leadership Program and New Leader Program, and has served as a mentor to USCIS colleagues in the USCIS Mentoring Program. Kate holds Master's and Bachelor's degrees in Anthropology and Religion. Prior to her government service, she was a member of academic research groups at the National Science Foundation and Kyoto University in Kyoto, Japan.

Maria Emilia "Emi" Ramirez joined the Public Engagement Division (PED) as a Community Relations Officer in June 2015. She manages the Avoid Scams Initiative, which includes the unauthorized practice of immigration law (UPIL) and other types of immigration services scams, as well as serving as the liaison between PED and the Innovation Technology Division (ITD). Before joining USCIS, Emi worked as an immigration attorney for Kentucky Refugee Ministries, taught social work and criminal justice at Kentucky State University, and worked at the ACLU of Kentucky. Emi grew up in Louisville, Kentucky, and graduated from the University of Louisville with a dual degree in law J.D. and M.S. in social work.

Ebony Turner began serving as a Community Relations Officer with the USCIS Customer Service and Public Engagement Directorate in August 2013. During her tenure, she has led outreach for employment-based immigration programs and currently leads outreach for temporary protected status and humanitarian parole programs. Turner began her Department of Homeland Security career in 2006 as a Disaster Reservist/External Affairs Specialist with the Federal Emergency Management Agency. She deployed throughout the U.S. to disaster stricken communities, providing strategic communications support to voluntary agencies, private sector entities and state and local officials. Turner will graduate from American University in May 2018 with a Masters of Arts in Journalism and Digital Storytelling. She received Bachelors of Arts' degrees from Louisiana State University in French, International Studies, and Theatre.

THURSDAY, APRIL 19 2018 (Continued)

Session B Understanding Immigrant and Refugee Health Determinants

This joint presentation will feature two parts: John Ujwok of the Nashville International Center for Empowerment will examine the health and educational challenges facing African refugees and immigrants due to problems such as cultural stigma associated with mental health, lack of sustained preventative health education, and low utilization of health screening services. Dr. Mark Edberg of the Avance Center for the Advancement of Refugee/Immigrant Health will present the determinants of health as a transnational continuum that includes at least three domains - home country circumstances, migration through geographic space, and adjusting to/coping with relocation in the U.S. setting.

Dr. Mark Edberg is an applied and academic anthropologist with more than 25 years' experience in social research from a public health perspective; currently an Associate Professor in the George Washington University Milken Institute School of Public Health Department of Prevention and Community Health (DPCH), with secondary appointments in the Department of Anthropology and the Elliott School of International Affairs. He directs the Avance Center for the Advancement of Immigrant/Refugee Health and directs the Center for Social Well-Being and Development.

John Ujwok is the Health Manager at the Nashville International Center for Empowerment (NICE). In 2012 John went to work for the Christian Blind Mission (CBM) in South Sudan as its Neglected Tropical Diseases Coordinator, where he mainly worked in the prevention of onchocerciasis (river blindness). Before taking the position of Health Program Manager at NICE, Mr. Ujwok worked in the Research and Development Microbiology Laboratory at Hormel Foods in Austin, Minnesota. He holds an MPH in infectious disease epidemiology and global health. Mr. Ujwok's passion is in disease prevention in populations affected by civil strife in developing countries, particularly in the sub-Saharan African region.

Session C Mental Health and Forced Marriage in Refugee Communities

This workshop will examine the nature, scope, and complex dynamics of forced marriage in refugee communities and share basic guidance on recognizing and responding to at-risk individuals. It will also explore adverse mental health outcomes associated with forced marriage among young refugees and asylum seekers, including trauma, depression, suicidality, and acculturation-related stress. Recommendations for direct service providers will also be shared, drawing on theories of resilience and strengths-based care strategies to address these challenges and empower affected youth in culturally appropriate ways.

Dina Baky joined the Tahirih Justice Center's Washington, D.C., area office in September 2015. As the Forced Marriage Initiative Project Associate, she provides direct social services to individuals facing forced marriage, responds to requests for technical assistance nationally, conducts education and outreach, and maintains the Forced Marriage Initiative's online presence. Prior to joining the Tahirih Justice Center, she served as the Youth Program Coordinator at the Foundation for Women's Health, Research and Development (FORWARD) in the United Kingdom, where she supported and engaged young people around female genital mutilation. Dina has also served as a sexual and gender-based violence caseworker at Africa and Middle East Refugee Assistance (AMERA) in Cairo, Egypt.

Nouf Bazaz is a Senior Fellow at the World Organization for Resource Development and Education (WORDE) where she develops trainings on implementing community mental health and psychosocial support programs. She is also an Adjunct Instructor at the Johns Hopkins University and teaches a course on Refugee Mental Health. Previously, Ms. Bazaz served as the Program Director of ICC Crossroads, a program of WORDE that provides counseling, case management, and positive youth development programming to refugee and immigrant families. Prior to joining WORDE/ICC, Ms. Bazaz developed maternal child health programming for refugee women and their families at the International Rescue Committee.

THURSDAY, APRIL 19, 2018 (Continued)

Casey Swegman is a nationally recognized expert on the issue of forced marriage in the United States. As the Forced Marriage Initiative Project Manager, Ms. Swegman provides direct social services to individuals facing forced marriages, fields technical assistance requests nationally, chairs the national Forced Marriage Working Group and coordinates the National Network to Prevent Forced Marriage. She holds a Bachelor of Arts degree in Psychology from Drexel University and a Master of Arts degree in Conflict Resolution from Georgetown University.

11:15 - 11:30 a.m. Break

11:30 a.m. - 1:00 p.m. Concurrent Sessions

Refugees' Right to Work: Civil Rights Protections and Resources

This session will educate refugees, asylees and the professionals working with them about workers' rights under the anti-discrimination provision of the Immigration and Nationality Act, and special issues facing refugees and asylees related to this law. Attendees will learn how to identify possible discrimination in the process of verifying a worker's authorization to work in the United States.

Sara-Daisy Dygert is the Outreach Coordinator at the Department of Justice (DOJ) Immigrant and Employee Rights Section. Sara-Daisy develops and implements outreach initiatives, coordinates outreach events, and plays a critical role in IER's hotline program. She has a background in non-profit advocacy and uses her bilingual English and Spanish skills in all aspects of her work.

Session B Mental Health First Aid Training for Refugee Community Leaders and Refugee-Serving Staff

This presentation's objectives are to: (1) share collaboration strategies between federal, state and local partners to build mental health capacity in refugee communities; (2) discuss logistical requirements for MHFA training and share participants' feedback; and (3) highlight MHFA resources to refugee stakeholders.

Nancy Kelly, M. Ed., has had 30 years of experience in the field of education. Ms. Kelly is permanently certified as a special education teacher and holds a school district administrator's certificate (NY). Her educational experiences have been focused around autism spectrum disorders spanning early intervention to adult vocational education. Ms. Kelly is currently employed as a public health advisor at SAMHSA, where she is a federal project officer for Project Advancing Wellness and Resilience Education (AWARE) grants as well as other grants supporting safe schools and resilient communities. Ms Kelly leads the Eating Disorder Strategic Planning Initiative and is also a certified MHFA and YMHFA Instructor.

Dr. Curi Kim is the Director for the Division of Refugee Health (DRH) at the Office of Refugee Resettlement (ORR) within the Administration for Children and Families. DRH manages and monitors state-based and discretionary grants related to health and healing, provides medical and public health technical assistance to stakeholders, and promotes refugee health through outreach and trainings. Prior to joining ORR, Dr. Kim was part of the Division of Global Migration and Quarantine at the Centers for Disease Control and Prevention. Dr. Kim received her Bachelor's degree and Master's degree in Public Health from the University of Michigan and her medical degree from Wayne State University.

Parangkush (PK) Subedi received his Master's degree in Public Health (MPH) from Emory University in Georgia in 2011; he obtained his other Master's degree in Science (MS) from Asian Institute of Technology in Thailand in 2007. Currently, he is a Health Program Analyst at the Office of Refugee Resettlement (ORR), Administration for Children and Families, where he oversees mental health and emotional wellness program activities. Prior to joining ORR, he worked at HIAS as a Reception and Placement Case Manager in Philadelphia and then as a Refugee Health Coordinator at the Philadelphia Department of Public Health for over two years (2012-2014). Mr. Subedi is a former refugee from Bhutan.

THURSDAY, APRIL 19, 2018 (Continued)

Session C

Challenges to the Economic Integration of Refugees: A Review of Findings from IRC and Upwardly Global

The session will feature highlights of two white papers published by IRC and Upwardly Global in the last year. Both papers cover the barriers to refugee economic mobility and discuss key recommendations for enhancing client outcomes.

Lauren LaVare is the Employment Services Manager for Upwardly Global's DMV Office. Before entering into this role Ms. LaVare had worked as both an Employment Service Associate with Upwardly Global and Employment Specialist with International Rescue Committee's Silver Spring Office. Before entering into the field of Workforce Development Lauren had completed 2 years of overseas fieldwork with U.S. Peace Corps Malawi.

Kasra Movahedi is the Director of the Center for Economic Opportunity at the International Rescue Committee (IRC). The portfolio of economic empowerment programs supported by Kasra includes Early Employment, Career Development, Financial Education and Counseling, Microenterprise Development, and Vocational ESL. Kasra also oversees IRC's efforts to establish a national lending program that will help refugees and other low-income immigrants access affordable credit to further bolster their upward economic mobility.

1:00 - 2:00 p.m. **Lunch**

2:00 - 3:15 p.m. **Concurrent Sessions**

Session A **Using Music Therapy to Support Refugees**

This workshop will explore benefits of creative arts therapies in refugee resettlement and integration with a focus on music therapy. Music therapists around the world have used music therapy to help promote mental health, wellness, community integration, and other goals with refugees, asylees and asylum seekers. The session will include at least two music therapy experientials for the audience as well as an interactive discussion about ongoing needs and potential applications of music therapy within the refugee community. The presenter will provide information about how to connect with music therapists interested in working with this population.

Janelle Junkin, PhD, MT-BC is a board-certified music therapist and an independent researcher currently conducting a Program Impact Evaluation for the Armed Services Arts Partnership in Washington D.C. She is an adjunct professor at Harrisburg University's Philadelphia campus and the co-founder of Unlock Ngenuity, LLC which focuses on consulting, creativity, and community through therapy, coaching and research. Dr. Junkin works with BuildaBridge International, an arts education and intervention non-profit, to provide support and coordination for community artists and creative arts therapists working with refugees, survivors of torture, and other vulnerable populations.

Amy Bliss Tenney, MT-BC, J.D., is a board-certified music therapist and former non-profit immigration and refugee attorney. Ms. Tenney studied Russian at Grinnell College and was a Public Interest Scholar at the University of Pennsylvania Law School. She completed her undergraduate equivalency in music therapy at Immaculata University in Malvern, Pennsylvania, where she will complete her Master's degree in Music Therapy in the summer of 2018. Previously, Ms. Tenney was involved with refugee and immigration law and immigration program development for 15 years with World Relief headquarters and other organizations. She is currently a Community Fellow through the Open Society Institute-Baltimore. In this position, she provides hands-on music therapy services to refugees, asylees, and asylum seekers in Baltimore, focused on mental health and community integration.

THURSDAY, APRIL 19, 2018 (Continued)

Session B

Redefining Economic Inclusion Opportunities for Refugees

This presentation will show how microenterprise development (MED) programs 1) Provide economic inclusion opportunities for refugees and asylees; 2) Assist refugee serving organizations to galvanize their resources and build capacities (to provided economic development services) at expanded and sustainable levels; and 3) Provide some examples of how refugees and asylees contribute to their local and federal economies. A small panel comprised of former recipients of loans from Enterprise Development Group's ORR MED program will share their experiences of receiving MED loans, how the loans affected their lives and businesses, and other insights. Finally, a summary of current and future trends within the United States' MED sector will be shared.

Ashley Davis is the Program Coordinator for the Enterprise Development Group's Office of Refugee Resettlement Microloan Program. She received her MSc in Anthropology and Development Management from the London School of Economics and Political Science. Her past experience includes managing three producer-only farmers' markets in the Chesapeake Bay Watershed and worked to provide KIVA microloans to farmers and producers looking to expand their microenterprises.

Belay Embaye is a Senior Principal Program Analyst with General Dynamics Information Technology, which provides support to the Office of Refugee Resettlement (ORR). He has been managing the ORR Microenterprise Development (MED) Program since 2005. Mr. Embaye has encouraged and assisted the ORR MED Program grantees to build capacity by diversifying their funding sources from the public and private sectors. Prior to joining ORR, Mr. Embaye was the Program Director of the ECDC Enterprise Development Group (EDG) from 2001 to 2005 where he managed the Microenterprise Development and Individual Development Account programs. Mr. Embaye has an MBA from George Mason University, Fairfax, VA, and a Master's Degree in Agricultural Economics from the University of Reading in England.

Session C

Empowering Immigrant Communities to Stop TB

Community leaders and organizations are critical public health partners. Community leaders are effective at providing information to their constituencies: they can help destigmatize TB; refer people with TB symptoms to care; and support those on treatment toward completion. This session will provide information on TB spread, and how it can be prevented and cured. The session will also discuss a county health department's role in TB control and share resources that can be used to dispel myths about TB, encouraging participants to share their experiences and ideas through small and large group activities.

Gloria Addo-Ayensu, M.D., M.P.H is the Director of Health for Fairfax County. In this capacity, she provides overall leadership, management and direction for public health programs in the county and serves as the official health advisor to Fairfax County's Board of Supervisors, Health Care Advisory Board and the Human Services Council. She has led a number of local and regional public health initiatives in the areas of emergency preparedness, health promotion and health equity.

Sara Bailey, BSN, RN is the Nurse Manager for the TB Field Program in Fairfax County. In this capacity, she provides leadership to a group of clinical staff who manage clients with both active disease and contact investigations. She is also a partner in the population health initiatives in the program. Her prior experience in public health school nursing, managed care, and hospital work has uniquely prepared her for this position.

Rachel Kidanne, RN, MSN is Nursing Supervisor of the Tuberculosis (TB) Program for Arlington County Division of Public Health (ACPHD). In this capacity, she provides technical expertise and operational support to the ACPHD TB Program, offering case management and treatment for clients with active and latent TB. Prior to joining ACPHD, Rachel worked for Doctors Without Borders in the Republic of Georgia training Ministry of Health nurses on the management of Drug Resistant Tuberculosis.

THURSDAY, APRIL 19, 2018 (continued)

3:15-3:30 p.m. **Break**

3:30-4:30 p.m. **Public Outreach and Community Engagement**

This panel will discuss how advocates can build alliances to generate support for refugees. Speakers will discuss their experiences in advocacy at the local and national levels.

Loren Schmidt is a Development/Digital Fundraising Officer at the U.S. Committee for Refugees and Immigrants (USCRI). She manages USCRI's 9 Facebook profiles as well as their Twitter, Instagram, and web presences. Loren was also a key player behind the scenes of USCRI's recent American Mosaic year-end campaign, acting as in-house content creator and main campaign implementer for web platforms. On the side, she is also a creative contributor/social media consultant to WISER, a nonprofit whose aim is to build more inclusive communities and equitable access to resources.

Kenn Speicher is a member of the executive committee of NOVA Friends of Refugees, a growing grassroots network of volunteers dedicated to welcoming refugees, creating welcoming communities for them, and raising awareness of the many ways refugees benefit our communities and nation. Kenn has been a career senior executive, marketing strategist, and writer with advertising and design firms. Kenn serves with global mission and social justice initiatives through the United Methodist Church and sits on the Board of Church & Society with its Virginia Conference. Kenn has a Master's in Public Administration and a Bachelor's in English from the University of Delaware.

Manar Waheed joined the American Civil Liberties Union (ACLU) in March 2017. As Legislative and Advocacy Counsel, she works on the intersection of issues impacting Muslim, Arab, Middle Eastern, and South Asian communities, including immigration, national security and counterterrorism, and hate violence and bullying. Manar works to ensure that policies affecting these communities are consistent with the Constitution, civil liberties, and human rights. She also plays a role in developing and implementing strategic campaigns and programming within the National Political Advocacy Department with an eye towards engaging Muslim, Arab, Middle Eastern, and South Asian communities.

4:30 - 4:45 p.m. **Closing Remarks**

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A LIFELINE FOR FORGOTTEN REFUGEES



NOTES

NOTES

**ECDC
Ethiopian Community
Development Council, Inc.**

**901 S. Highland Street
Arlington, Virginia 22204**

Phone: (703) 685-0510 Fax: (703) 685-0529

E-mail: info@ecdcus.org

Website: www.ecdcus.org

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Withheld pursuant to exemption

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of the Freedom of Information and Privacy Act

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Page 0123 of 1086

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of the Freedom of Information and Privacy Act

From:	Lisa Correnti <lisa@c-fam.org>
To:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Subject:	Speaker Invite
Date:	2018/04/19 10:50:13
Priority:	Normal
Type:	Note

Dear Scott,

Attached please find an invite letter and draft agenda for an anti-trafficking briefing on May 17 in Washington DC at the Russell Senate bldg.

We invite you to present on the vulnerability of unaccompanied minors in falling prey to traffickers and U.S. government programs that protect these children while waiting to be united with family. Your panel will begin at 3pm.

Please see attached for more information. Happy to discuss by phone.

Best regards,

Lisa

Lisa Correnti

Executive Vice President

Center for Family and Human Rights (C-Fam)

lisa@c-fam.org

NY: (212) 754-5948

DC: (202) 393-7002

Sender:	Lisa Correnti <lisa@c-fam.org>
Recipient:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Sent Date:	2018/04/19 10:48:25
Delivered Date:	2018/04/19 10:50:13

From:	Lloyd, Scott (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5F7F5DDB3DAC432CBDD8ACAF8038CFB5-LLOYD, EDWA>
To:	"Lisa Correnti <lisa@c-fam.org>"
Subject:	RE: Speaker Invite
Date:	2018/04/20 11:00:00
Priority:	Normal
Type:	Note

Hi Lisa,

Thank you for the invite. I will see if this is possible and get back to you.

Scott

From: Lisa Correnti [mailto:lisa@c-fam.org]
Sent: Thursday, April 19, 2018 10:48 AM
To: Lloyd, Scott (ACF)
Subject: Speaker Invite

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Sender:	Lloyd, Scott (ACF) </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5F7F5DDB3DAC432CBDD8ACAF8038CFB5-LLOYD,
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	EDWA>
Recipient:	"Lisa Correnti <lisa@c-fam.org>"
Sent Date:	2018/04/20 11:00:41
Delivered Date:	2018/04/20 11:00:00

From:	Lisa Correnti <lisa@c-fam.org>
To:	"Lloyd, Scott (ACF) </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=5f7f5ddb3dac432cbdd8acaf8038cfb5-Lloyd, Edwa>"
Subject:	Re: Speaker Invite
Date:	2018/04/20 12:33:36
Priority:	Normal
Type:	Note

Thank you, Scott.

On Apr 20, 2018, at 11:00 AM, Lloyd, Scott (ACF) <Scott.Lloyd@acf.hhs.gov>wrote:

Hi Lisa,

Thank you for the invite. I will see if this is possible and get back to you.

Scott

From: Lisa Correnti [<mailto:lisa@c-fam.org>]

Sent: Thursday, April 19, 2018 10:48 AM

To: Lloyd, Scott (ACF)

Subject: Speaker Invite

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Lisa Correnti

Executive Vice President

Center for Family and Human Rights (C-Fam)

lisa@c-fam.org

NY: (212) 754-5948

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Sent Date:	2018/04/20 12:32:43
Delivered Date:	2018/04/20 12:33:36

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1. UNITED STATES DISTRICT COURT
2. SOUTHERN DISTRICT OF NEW YORK
3. -----x
4. L.V.M., a minor, by and through his next
friend EDITH ESMERALDA MEJIA DE GALINDO,
5. on his own behalf and on behalf of
others similarly situated,

6

Plaintiffs/Petitioners,

7

v.

Case No.
18-cv-1453 (PAC)

9 SCOTT LLOYD, Director, Office of
10 Refugee Resettlement; JONATHAN WHITE,
Deputy Director, Office of Refugee
Resettlement; STEVEN WAGNER, Acting
11 Assistant Secretary for the
Administration for Children and
12 Families, U.S. Department of Health and
Human Services; ALEX AZAR, Secretary,
13 U.S. Department of Health and Human
Services; ELCY VALDEZ, Federal Field
14 Speciality, Office of Refugee
Resettlement; JEREMY KOHOMBAN, President
15 and Chief Executive Officer, Children's

16 Defendants/Respondents.

17 -----x

18

19 Video Deposition of EDWARD SCOTT LLOYD

20 Washington, D.C.

21 Friday, April 13, 2018 - 9:27 a.m.

22

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24 Reported by:
Amy E. Sikora-Trapp, RPR, CRR, CLR
25 Job no: 21383

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Deposition of EDWARD SCOTT LLOYD, held at
the offices of:
United States Department of Justice
950 Pennsylvania Avenue, Northwest
Washington, D.C. 20530

Pursuant to notice, before Amy E.
Sikora-Trapp, Registered Professional Reporter,
Certified Realtime Reporter, Certified LiveNote
Reporter, and Notary Public in and for the
District of Columbia.

0003

1. A P P E A R A N C E S
 2. ON BEHALF OF THE PLAINTIFFS:
 3. CHRISTOPHER DUNN, ESQUIRE
 4. PAIGE AUSTIN, ESQUIRE
 5. AADHITHI PADMANABHAN, ESQUIRE
 6. SCOUT KATOVICH, ESQUIRE
 7. New York Civil Liberties Union Foundation
 8. 125 Broad Street, 19th Floor
 9. New York, New York 10004
 10. 212-607-3300
 11. cdunn@nyclu.org
 12. paustin@nyclu.org
 13. apadmanabhan@nyclu.org
 14. skatovich@nyclu.org
- 15
16. ON BEHALF OF THE FEDERAL DEFENDANTS:
 17. MICHAEL J. BYARS, ESQUIRE
 18. United States Attorney
 19. Southern District of New York
 20. 86 Chambers Street, 3rd Floor
 21. New York, New York 10007
 22. 212-637-2793
 23. michael/byars@usdoj.gov

24

-and-

25

0004

1. A P P E A R A N C E S
2. (Continued)
3. SARAH B. FABIAN, ESQUIRE
4. United States Department of Justice
5. Civil Division
6. P.O. Box 868
7. Ben Franklin Station
8. Washington, D.C. 20044
9. 202-532-4824
10. sarah.b.fabian@usdoj.gov

11

15. ON BEHALF OF DEFENDANT JEREMY KOHOMBAN:

16. BENJAMIN NEIDL, ESQUIRE
17. Jackson Lewis P.C.
18. 677 Broadway
19. Albany, New York 12207
20. 518-512-8700
21. benjamin.neidl@jacksonlewis.com

19

20 ALSO PRESENT:

- 21 Martin Sherrill, Videographer
- 22 Natasha Waglow Teleanu, Esquire

23 U.S. Department of Justice
24 Julia Fuma, U.S. Department of Justice
25

0005

1. C O N T E N T S

	PAGE
2. EXAMINATION OF EDWARD SCOTT LLOYD	
3. By MR. DUNN	9
4. By MR. BYARS	261
5	
11. ---TRANSCRIPT INFORMATION/REQUESTS/DIRECTIONS---	
12. DIRECTIONS NOT TO ANSWER	
13. (page/line)	
14. 18 6	
15. REQUESTS	
16. (page/line)	
17. 78 10 any documents that we discuss today	
18. that you still have that you do not	
19. in any way discard those documents	
15	
22. E X H I B I T S	
23. LLOYD	PAGE
24. 1 copy of Lloyd résumé with addendum,	34
25. two pages	
26. 2 8/16/17 AC&F information memo	134
27. regarding community safety	

28. initiative for the UAC program, four

29. pages

24

25

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1. C O N T E N T S

2. (Continued)

3. E X H I B I T S

4. LLOYD	PAGE
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5. 3 2/15/18 USDHS publication entitled:	138
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6. Unaccompanied Alien Children and	
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7. Family Units Are Flooding the Border	
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8. Because of Catch and Release	
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9. Loopholes, four pages	
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10. 4 HHS online policy guide, bearing	142
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11. Bates Numbers HHS000001 through	
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12. HHS000003	
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13. 5 3/14/17 UC Policy(ACF) email, bearing	153
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14. Bates Number HHS000015	
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15. 6 AC&F publication regarding FAQ:ORR	159
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16. Director's Release Decision, bearing	
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17. Bates Numbers HHS000006 and	
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18. HHS000007	
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19. 7 email string, top one dated 4/3/18	228
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20. from De La Cruz to De La Cruz,	
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21. bearing Bates Numbers HHS022711
22. 8 list of cases elevated to ORR, 232
23. bearing Bates Number~HHS000226
24
25

0007

1. C O N T E N T S
2. (Continued)
3. E X H I B I T S
4. LLOYD PAGE
5. 9 document entitled: 5a) Total Number 241
6. of UAC nationwide who may have been
7. subject to the policy (March 25,
8. 2017 to March 31, 2018) = 841,
9. bearing Bates Number HHS000225
10. 10 form entitled: ORR Division of 253
11. Unaccompanied Children Operations,
12. Recommendation to Approve Release
13. from Secure and Staff Secure
14. Placements, bearing Bates Numbers
15. HHS035787 through HHS035790
16. 11 form entitled: Office of Refugee 254
17. Resettlement, Division of
18. Unaccompanied Children Operations,
19. Recommendation to Deny Release,

20. bearing Bates Numbers HHS035783

21. through HHS035786

22

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0008

1. THE VIDEOGRAPHER: This is tape

2. No. 1 of the video deposition of Scott Lloyd in

3. the matter of L.V.M. versus Lloyd, et al.

4. This deposition is being held at

5. the Department of Justice on April 13, 2018, at

6. approximately 9:29 a.m.

7. My name is Martin Sherrill from

8. TransPerfect, and I'm the legal video specialist.

9. The court reporter today is Amy

10. Sikora, in association with TransPerfect.

11. Will counsel please introduce

12. themselves.

13. MR. DUNN: Christopher Dunn,

14. New York Civil Liberties Union, for the

15. plaintiff.

16. MR. BYARS: Michael Byars,

17. assistant U.S. Attorney, for Mr. Lloyd and the

18. respondents.

19. MR. NEIDI: Benjamin Neidl, from
20. Jackson Lewis, for Defendant Jeremy Kohomban.
21. MR. DUNN: And I also have with me
22. Paige Austin, Aadhithi Padmanabhan, and Scout
23. Katovich, all with the New York Civil Liberties
24. Union.
25. MR. BYARS: And we also have Sarah

0009

1. Fabian, Natasha Teleanu, and Julia Fuma.
2. THE COURT REPORTER: And Julia?
3. MR. BYARS: Fuma, F-U-M-A.
4. P R O C E E D I N G S
5. Whereupon,
6. EDWARD SCOTT LLOYD,
7. called as a witness, having been first duly
8. sworn by the Notary Public (Amy E. Sikora-Trapp),
9. was examined and testified as follows:
10. EXAMINATION BY COUNSEL
11. FOR THE PLAINTIFFS/PETITIONERS
12. BY MR. DUNN:
13. Q. Good morning, Mr. Lloyd.
14. A. Good morning.
15. Q. Again, I'm Chris Dunn with the
16. New York Civil Liberties Union.
17. A. Okay.

18. Q. When did you learn you'd be deposed
19. in this matter?
20. A. A couple of weeks ago.
21. Q. Can you tell me what, if anything,
22. you've done to prepare for this deposition?
23. A. I met with my attorneys, thought
24. and prayed.
25. Q. I'm sorry, what were the last two

0010

1. things you said?
2. A. Thought and prayed.
3. (Reporter-initiated discussion off
4. the record.)
5. Q. Okay. Other than the meetings you
6. had with your attorneys, did you do anything else
7. beyond thought and prayer to prepare for today?
8. A. I did check on the name of -- of
9. one of the people who may have been in one of the
10. meetings that may be relevant today.
11. Q. Okay. And who's that person?
12. A. Well, this is very second -- to
13. Rachel Jacobs. I wanted to make sure I had that
14. right.
15. Q. Okay. And was Rachel Jacobs in one
16. of the meetings you had with the attorneys?

17. A. No.

18. Q. Okay. What was the meeting that

19. she was in that prompted you to check her name in

20. preparation for this deposition?

21. A. Oh, this was -- this was meetings

22. with UAC.

23. Q. So is this the UAC that you met

24. with?

25. A. Yeah.

0011

1. Q. And why did you meet with Rachel

2. Jacobs in preparation for this deposition?

3. A. Oh, no, no, no. I didn't meet with

4. her. I just -- so maybe if you'd restate your

5. original question.

6. Q. Yeah. So just as a preliminary

7. matter I want to make sure I understand what you

8. did to prepare for this description. So you

9. mentioned meeting with your lawyers, thought and

10. prayer, and you mentioned trying to identify the

11. name of this person you had met with?

12. A. Yeah. So I -- I -- yeah, I texted

13. somebody to make sure that I had Rachel Jacobs'

14. name right.

15. Q. Okay. Is Rachel Jac -- is Rachel

16. Jacobs a government employee?

17. A. Yeah. She's a project officer.

18. Q. Did you review any documents in

19. preparation for this depositions?

20. A. In consultation with my attorneys.

21. Q. Okay. Well, setting aside -- I

22. don't want to hear anything about conversations

23. you had with your attorneys.

24. Can you identify for me all

25. documents that you reviewed in preparation for

0012

1. this deposition?

2. A. None.

3. Q. None. So that means, just to be

4. clear, you did not look at any paper in

5. preparation for this deposition?

6. A. Right.

7. Q. Did you look at any emails in

8. preparation for this deposition?

9. A. No.

10. Q. Did you review any video in

11. preparation for this deposition?

12. A. No.

13. Q. All right. So the only -- is it

14. correct that the only information that you have

15. that you obtained in preparation for this
16. deposition was what your attorneys told you?
17. A. Yeah.
18. Q. Okay. How many meetings did you
19. have with your attorneys?
20. A. Two.
21. Q. At those two meetings was anyone
22. other than one of your attorneys present?
23. A. I don't think so.
24. Q. Well, if you can think about those
25. two meetings. I just want to be clear.

0013

1. A. Uh-huh.
2. Q. I take it those happened in the
3. last couple of weeks?
4. A. Uh-huh.
5. Q. So in either of those two meetings
6. was there anyone present other than your
7. attorneys?
8. A. I don't think so.
9. Q. When you say "I don't think so," do
10. you mean there was someone in the meeting that
11. you don't know if that person was an attorney of
12. yours?
13. A. No. I just mean, when I think

14. about it, I think there were only attorneys in
15. the room.

16. Q. Did you prepare any notes in
17. anticipation of this deposition?

18. A. No.

19. Q. Did you bring any materials with
20. you today in preparation for the deposition?

21. A. No.

22. Q. Have you looked at the complaint
23. that was filed in conjunction with this lawsuit?

24. A. Yes.

25. Q. When did you look at that?

0014

1. A. Around the time that you had filed
2. it.

3. Q. Are you aware that there have been
4. two court conferences in conjunction with this
5. case?

6. A. I was vaguely aware. I mean, if
7. you were to ask me how many there had been, I
8. probably wouldn't have been able to say two.

9. Q. Okay. Have you seen the
10. transcripts in those two court conferences?

11. A. No.

12. Q. Do you have any information about

13. what happened in those two court conferences?

14. A. No. Very -- scheduling depositions

15. and things.

16. Q. Are you aware that the government

17. has produced to us certain documents in

18. conjunction with this lawsuit?

19. A. Yes.

20. Q. Have you reviewed any of those

21. documents?

22. A. I believe so.

23. Q. All right. Can you tell me what

24. discovery documents you've reviewed?

25. A. No.

0015

1. Q. Can you identify any discovery

2. documents you've reviewed?

3. A. No. Probably emails and things in

4. the -- in the process of producing them.

5. Q. Okay. Well, let's set aside

6. probably. I just want to make sure --

7. A. Sure.

8. Q. -- as sit here now can you recall

9. any, including a single piece of discovery that

10. you reviewed that was produced to us?

11. A. Are you -- you're referring to the

12. documents?

13. Q. Yes.

14. A. Yeah.

15. Q. Which would include emails.

16. A. Yeah. I can't -- I can't pick out

17. the substance of any of the emails that we

18. produced.

19. Q. All right. Does that mean, though,

20. that you recall having reviewed emails that were

21. produced?

22. A. I don't have memory of me sitting

23. in a specific place reading a specific email. I

24. have a vague recollection of the process, but

25. we've got a lot going on.

0016

1. Q. I know you have a busy life. And

2. I'm not asking about specifics. I'm asking if

3. you recall having reviewed emails that were

4. produced to us?

5. A. I recall having reviewed emails.

6. But I don't know if it was for this purpose or

7. for other purposes.

8. Q. As you sit here today, can you

9. identify any document, and I'm including

10. emails --

11. A. Uh-huh.
12. Q. -- any particular document that was
13. produced to us through discovery in this case?
14. A. Can I recall any document that was
15. produced during this case?
16. MR. DUNN: Could you read the
17. question back to him, please.
18. (Record read.)
19. A. Yes.
20. Q. Okay. And what documents do you
21. recall that you reviewed that were produced to
22. us?
23. A. That was during my meetings with my
24. attorneys.
25. Q. I don't want to know how you know

0017

1. about it. Just if you could identify the
2. documents.
3. A. Uh-huh. But if I was reviewing
4. them in a meeting with my attorneys, then is that
5. not privileged?
6. MR. BYARS: Yeah. I'm going to
7. assert privilege because it goes to the topic of
8. what we showed him in preparation for this
9. because it would reveal our attorney-client

10. communications and also work product in relation
11. to this.

12. Q. All right. Well, I asked you a
13. question earlier, Mr. Lloyd, if you had reviewed
14. any documents at any time in preparation for this
15. deposition. You said you had not reviewed any.
16. Are you now saying you did review
17. documents? And, again, I want to be clear --
18. A. I think we would have to go back,
19. because that's not the question that I recall you
20. asking.

21. Q. Okay. Well, that's a great thing
22. about a reporter and a transcript.

23. A. Right.

24. Q. We don't have to rely on our
25. memory. So let me reask the question.

0018

1. A. Sure.

2. Q. In preparation for this deposition,
3. did you review any documents?

4. A. I review -- I can recall reviewing
5. one document in a meeting with my attorneys.

6. Q. Okay. What's the document that you
7. reviewed?

8. MR. BYARS: I'm going to assert our

9. privilege here, work product and attorney-client
10. privilege, as to the documents that we selected
11. as part of our review process.
12. I'm going to instruct the witness
13. not to answer as to the documents that were
14. selected for him to review as part of our
15. preparation.
16. MR. DUNN: All right. So just to
17. be clear, I didn't ask him anything about which
18. documents you selected, and I didn't ask him any
19. question about documents he reviewed specifically
20. in conjunction with meeting with you.
21. So I'll ask the question again, and
22. if you want to instruct him not to answer, of
23. course, that's your prerogative.
24. Q. Mr. Lloyd, you mentioned that you
25. reviewed one document in preparation for this

0019

1. deposition. I'm uninterested in knowing the
2. context in which you reviewed it. But what is --
3. A. You're uninterested --
4. Q. I'm uninterested in that.
5. What is the specific document that
6. you reviewed?
7. A. And I'm being instructed not to

8. answer.

9. MR. BYARS: I believe Mr. Lloyd has

10. respond -- yes, I'm instructing him not to

11. answer.

12. MR. DUNN: Okay.

13. Q. Other than the conversations you've

14. had with your attorneys, have you discussed this

15. deposition with anybody else?

16. A. Yes.

17. Q. Who are those people?

18. A. If memory serves, Anna Marie Bena

19. and Toby Biswas.

20. Q. All right. Starting with -- I'm

21. sorry, Ann Marie Bena?

22. A. It's Anna Marie.

23. Q. Anna Marie?

24. A. Yes.

25. Q. How does she spell her last name?

0020

1. A. B-E-N-A.

2. Q. What's the conversation or

3. conversations you had with Ms. Bena?

4. A. Just the fact of the litigation and

5. the deposition.

6. Q. And was that a single conversation?

7. A. It was probably an email.
8. Q. And did she email you or did you
9. email her?
10. A. She emailed me. It would be Anna
11. Marie or Toby.
12. Q. Okay. Well, let's start with Anna
13. Marie.
14. A. Uh-huh.
15. Q. What's the email that she sent you?
16. A. When -- when the litigation was
17. initiated, she gave us a heads up that it had
18. been done. I think we -- she received the
19. notification from OGC. The work flow typically
20. goes from OGC to our policy office to-- to me, if
21. it's -- if it's relevant. And then -- that's it.
22. So she just sent me an email.
23. Q. And is OGC your office of general
24. counsel?
25. A. Yes.

0021

1. Q. Okay. I just want to be clear.
2. The question I was asking you is about
3. conversations you've had about the deposition.
4. A. Uh-huh.
5. Q. So was there something in that

6. email that pertained to your deposition?
7. A. Just the fact of it.
8. Q. Just the fact of the deposition?
9. A. Yes.
10. Q. All right. And what did you say in
11. response to that email?
12. A. I don't recall responding.
13. Q. And then, I'm sorry, Toby Biswa?
14. A. Biswas, yes.
15. Q. Biswas. What's the conversation
16. you had with her about your deposition?
17. A. It's -- it's a him and --
18. Q. I'm sorry.
19. A. It's all right. He -- he was
20. probably copied or he could have been the one who
21. sent me the email sending -- giving me the heads
22. up.
23. Q. All right. So this is the same
24. email you spoke of before?
25. A. Yeah.

0022

1. Q. Anybody else that you recall, other
2. than your lawyers and the two of them, who you've
3. discussed this deposition with?
4. A. Again, just the fact of it. I am

5. in a meet -- or in a deposition today or on
6. Friday.
7. Q. Other than just the fact of the
8. deposition, have you had any conversation with
9. any of your direct substantive staff about this
10. deposition?

11. A. No.

12. Q. Was anybody in your direct staff
13. present in the meetings you had with your
14. lawyers?

15. A. No. I don't recall.

16. Q. Well, there's a difference, of
17. course, between no and I don't recall so --

18. A. Well, I mean, according to my
19. recollection, the answer is no.

20. Q. Okay. All you can testify to is
21. what you recall.

22. A. Okay.

23. Q. All right. With respect to the
24. case itself, what do you understand to be the
25. basic claims in the lawsuit?

0023

1. A. That our review process for release
2. has -- is too long and is resulting in
3. unnecessary delay.

4. Q. And what's your understanding, if
5. any, about what the lawsuit alleges those
6. unnecessary delays are violating as a matter of
7. law?

8. A. The Flores agreement, TVPRA,
9. Homeland Security Act.

10. Q. Okay. And, I'm sorry, I think you
11. said that you have reviewed the complaint; is
12. that correct?

13. A. Uh-huh. Yes.

14. THE COURT REPORTER: Thank you.

15. MR. DUNN: Thank you, Miss.

16. Q. All right. Other than the
17. conversations you already testified to, have you
18. had any conversations with anyone, other than
19. your lawyers, about the lawsuit itself?

20. A. No. Other -- just the fact of it.

21. Q. All right. Let's go, if we can,
22. and just do -- I'm going to ask you a few
23. questions about your background.

24. A. All right.

25. Q. So can you tell me what formal

0024

1. education you've had since high school?
2. A. I have a bachelor's degree.

3. Q. From where?
4. A. James Madison University.
5. Q. What was your major?
6. A. English.
7. Q. Did you have a minor?
8. A. No.
9. Q. All right. And when did you get
10. your BA?
11. A. 2001.
12. Q. After that any formal education?
13. A. Law school.
14. Q. Where'd you go to law school?
15. A. Catholic University of America,
16. Columbus School of Law.
17. Q. And when did you graduate, if you
18. did?
19. A. 2007.
20. Q. Are you admitted to any bars?
21. A. Virginia.
22. Q. Okay. When were you admitted to
23. Virginia?
24. A. 2008.
25. Q. Did you start at Catholic in 2005?

0025

1. A. 2004.

2. Q. Okay. What did you do between
3. graduating from James Madison and starting law
4. school?
5. A. I was a teacher.
6. Q. Where were you a teacher?
7. A. New York City. Oh, and New Jersey.
8. Q. Good for you. Okay. Then you go
9. to law school. Graduated in 2007. You're in the
10. bar in 2008.
11. A. I had a semester of theology as
12. well.
13. Q. And where was that?
14. A. John Paul, III, Institute for
15. Marriage and the Family.
16. Q. And where's that?
17. A. That's in Washington, D.C.
18. Q. Other than that, any formal
19. education after high school?
20. A. No.
21. Q. Okay. When you were at Catholic,
22. did you take any courses that related to either
23. child welfare or immigration?
24. A. Child welfare and immigration.
25. Yeah, not directly.

0026

1. Q. When you were at James Madison, did
2. you take any courses either in child welfare,
3. social work, or immigration?
4. A. Yes.
5. Q. What courses did you take in any of
6. those three areas?
7. A. I prepared -- I had a minor in
8. teaching, secondary education, so everything
9. related to that. Developmental psychology,
10. et cetera.
11. (Reporter-initiated discussion off
12. the record.)
13. Q. How many courses did you take in
14. that area?
15. A. I don't know.
16. Q. Do you have any certifications in
17. the social work or child welfare field?
18. A. No.
19. Q. All right. Beyond your admission
20. to the Virginia bar, are you admitted in any
21. other courts?
22. A. No.
23. Q. Have you actually practiced as a
24. lawyer?
25. A. Yes.

0027

1. Q. What was your practice?
2. A. Well, in the Department of Health
3. and Human Services, general -- and all -- all of
4. my experience or --
5. Q. Well --
6. A. What do you mean by "practice as a
7. lawyer"?
8. Q. I mean hold yourself out to the
9. world as a lawyer and take clients and do other
10. work for those clients.
11. A. Okay. So I worked for the office
12. of general counsel in the Department of Health
13. and Human Services.
14. Q. And when was that?
15. A. 2007 to 2009. If we want to get
16. into the very details, it wasn't until probably
17. 2008 that I was in the office of general counsel.
18. I was in ASPE before that.
19. Q. And what's ASPE?
20. A. Assistant secretary for planning
21. and education -- or evaluation, excuse me.
22. Q. And after your time at the office
23. of general counsel, was there any other time in
24. which you practiced as a lawyer?
25. A. Yes. Yes.

1. Q. When was that?
2. A. In -- in the periods after I worked
3. for a private law firm.
4. Q. And what was the law firm?
5. A. It was Wood Maines & Nolan, and it
6. became LegalWorks Apostolate.
7. (Reporter-initiated discussion off
8. the record.)
9. Q. And where's that located?
10. A. Wood Maines & Nolan, it's now a
11. different -- different names, but in Arlington,
12. Virginia. And then LegalWorks Apostolate is in
13. Front Royal, Virginia.
14. Q. After working for them -- and
15. excuse me. What period of time did you work for
16. that firm?
17. A. Yeah. 2009 to 2011.
18. Q. And after that did you practice as
19. a lawyer?
20. A. Yes.
21. Q. And what was that practice?
22. A. Oh, well, yeah. After that it
23. was -- I was in the policy office of Knights of
24. Columbus where I was a policy attorney, but I was
25. not part of the legal team there.

1. Q. All right. And what was the period
2. of time that you would have done that as a policy
3. attorney?
4. A. 2011 to 2006 -- '17.
5. Q. And is that until the time that you
6. came back to the government?
7. A. Uh-huh.
8. (Reporter-initiated discussion off
9. the record.)
10. A. Yes.
11. Q. Have you ever been the subject of a
12. complaint --
13. A. There's a legal staffing between --
14. sorry. There's one -- one period.
15. Q. Uh-huh.
16. A. Between summer -- in 2009 I was
17. working for a legal staffing firm doing temporary
18. employment, legal employment.
19. Q. And on that point, if at any point
20. you remember something, it's fine to stop and
21. we'll go back and fill it in.
22. A. Okay.
23. Q. Have you been ever -- ever been the
24. subject of a complaint concerning your actions as

25. an attorney?

0030

1. A. I -- I don't know. Actually, I've
2. read of a complaint in the media, but never
3. received anything about the complaint.

4. Q. Is the complaint that you read
5. about a complaint that was, at least according to
6. the media account, filed before or after you
7. returned to the government in 2017?

8. A. After.

9. Q. Okay. So before that --
10. A. No.

11. Q. All right. Just to be clear for
12. the record, the complete question was going to be
13. before that is it correct that you were -- at
14. least don't know of any complaints that were
15. filed against you in terms of your activities as
16. an attorney?

17. A. That's correct.

18. Q. Okay. Have you ever published any
19. articles concerning social work or child welfare?

20. A. No.

21. Q. Have you ever published anything
22. concerning immigration? You need to --
23. A. I'm thinking.

24. Q. Oh. I'm sorry.
25. A. No. Yes. Well, no. Sorry. Not

0031

1. immigration.
2. Q. All right. What have you
3. published --
4. A. Displacement.
5. Q. Displacement, okay.
6. So what do you mean by
7. "displacement"?
8. A. Displacement and war crimes.
9. Q. All right. And what did you
10. publish on that topic?
11. A. I contributed to a report that --
12. while working for the Knights of Columbus. I'm
13. trying to recall when they move -- of the report.
14. Well, I -- I don't know. Having to do with
15. genocide of Christians in the Middle East.
16. Q. Any other publications that you
17. recall as we sit here?
18. A. No.
19. Q. All right.
20. A. Regard -- regarding immigration,
21. no.
22. Q. Regarding anything?

23. A. Yeah.

24. Q. I asked you initially about social

25. work and immigration, and then you said there's

0032

1. this one piece that you mentioned about

2. displacement and war crimes. Sounds right.

3. Now what I'm asking you is, beyond

4. those topics, have you otherwise published?

5. A. Yes.

6. Q. What publications do you have?

7. A. There -- there -- there's a number

8. of them. I worked for a while for -- well, not

9. work, but contributed to the online journal

10. Ethica Politika with a regular column. Other, I

11. guess you could say, one-offs and -- yeah,

12. other -- other one-offs throughout a number of

13. different publications.

14. Q. Have you ever publicly spoken about

15. child welfare or social work issues?

16. A. Child welfare or social work. Are

17. we including teaching in this or --

18. Q. If you taught in those two areas,

19. yes, I would include that.

20. A. No. I mean, as a teacher, does

21. it -- experience as a teacher.

22. Q. Well, I'm talking about public
23. presentations, if you -- that you --
24. A. No. No.
25. Q. And I take it, when you're talking

0033

1. about teaching, you're talking about teaching
2. that took place in New York City?
3. A. Uh-huh.
4. Q. Okay.
5. A. Yes.
6. THE WITNESS: Sorry.
7. Q. What grades were you teaching then?
8. A. Yes.
9. THE WITNESS: Sorry.
10. A. Elementary school. Third through
11. eighth and fifth through eighth.
12. Q. Have you made any public
13. presentations about immigration issues?
14. A. Displacement issues.
15. Q. And what public presentations have
16. you made about displacement issues?
17. A. "We Are All Infidels Now." As part
18. of CPAC, I was asked to join a panel.
19. Q. And is "We All Infidels Now" the
20. title of the presentation?

21. A. It's the title of the panel.
22. Q. And when was that?
23. A. 2016. Also I was part of a panel
24. for the international roundtable for religious
25. freedom, was I believe the -- the name of the

0034

1. organization. This is on the Hill. It was a
2. day-long conference and I was part of a panel
3. with a number of -- well, a victim of ISIS and
4. other policy people.

5. Q. And when approximately was that?

6. A. March of 2016. May have been
7. April.

8. Q. Okay.

9. MR. DUNN: Can you mark that as
10. Lloyd Exhibit 1.

11. (Lloyd Exhibit Number 1, copy of
12. Lloyd résumé with addendum, two pages,
13. marked for identification as of this
14. date.)

15. Q. Mr. Lloyd, we've handed you a
16. document, a two-page document. It's a
17. double-sided page. It bears what appears to be
18. your name on the top of it.
19. Do you recognize this document?

20. A. Yeah.
21. Q. What is this?
22. A. This is my résumé with -- with an
23. addendum.
24. Q. I'm sorry, with a what?
25. A. An addendum.

0035

1. Q. Okay. Do you recognize this
2. particular version of the document, namely, with
3. the addendum?
4. A. I've never seen it with the
5. addendum copied and pasted, no. The addendum
6. being "Dear," redacted. "Thank you for the call
7. earlier." Starting there.
8. Q. On the bottom of the second page?
9. A. Yeah. I didn't write that.
10. Q. And is that text from what appears
11. to be an email from you?
12. A. Yeah.
13. Q. Okay. Could you take a moment and
14. look at this. And I just want to ask you if you
15. could confirm everything on this résumé is
16. accurate.
17. A. It says "Humor Columnist," but I
18. just found those articles and they're not very

19. funny.

20. Q. Well, I appreciate your sense of
21. humor about that. On that point, at least at the
22. time, was it in fact fair to characterize your
23. column as a humor column?

24. A. There -- there were attempts at
25. humor, yes.

0036

1. Q. Okay.

2. A. Okay. It looks accurate. I don't
3. see anything that's been altered.

4. Q. Okay. And is there anything of
5. significance, in terms of your career, up until
6. the point where the résumé ends that is omitted
7. from this?

8. A. Oh. That's a very general
9. question. But very general, this -- this grabs
10. the highlights.

11. Q. Okay. Do you have any social media
12. accounts?

13. A. I don't know. I think I have a
14. LinkedIn account that's fallen into disuse. And
15. I -- I don't know if I still have a Twitter or --
16. none that I use.

17. Q. Does your LinkedIn account still

18. exist in your name?

19. A. I believe so.

20. Q. All right. So would that be -- is

21. that Edward Scott Lloyd? E. Scott Lloyd? Scott

22. Lloyd? Do you know?

23. A. I -- I don't know. I don't visit

24. it. I haven't visited it. I -- I think last

25. time I visited it was right around when I was

0037

1. applying for this job. But if I were to try to

2. sign in, I wouldn't remember the password or

3. anything like that.

4. Q. The curse that we all face?

5. A. Yeah.

6. Q. All right. You mentioned Twitter.

7. What's your Twitter handle, if you know?

8. A. I don't know.

9. Q. If you needed to find it, could

10. you?

11. A. It would be very difficult.

12. Q. Have you ever had a Facebook

13. account?

14. A. Yes.

15. Q. Is it still active?

16. A. No.

17. Q. Okay. Do you know what your
18. public-facing identification was on your Facebook
19. account?
20. A. Yes.
21. Q. What was it?
22. A. Scott L.
23. Q. What period of time did you have a
24. Facebook account?
25. A. I don't know when I signed up. I

0038

1. think it was in 2006-ish.
2. Q. And do you know when you closed it,
3. if that's what you did?
4. A. Winter of 2016, 2017.
5. Q. And why did you close it?
6. A. I don't like Face -- I don't like
7. Facebook. And it's -- it's something that I just
8. tried to stay away from and then decided to get
9. off of it, especially as I was heading into
10. government work.
11. Q. Any other social media accounts
12. that you can think of?
13. A. No. None that are active.
14. Q. Well, let's set aside anything
15. that's active.

16. Have you ever had any other social
17. media accounts?
18. A. Like Myspace, random.
19. Q. Okay. Do you happen to remember
20. what your account name was --
21. A. No.
22. Q. -- for your Myspace account?
23. A. No.
24. Q. That was a long time ago?
25. A. Yeah.

0039

1. Q. Okay. Other than your government
2. email, do you have any email accounts?
3. A. Yup.
4. Q. What are your email accounts?
5. A. I've got a Gmail account and a
6. Yahoo account.
7. Q. All right. What are your -- what's
8. your Gmail address?
9. A. Edwardscottlloyd.
10. Q. No spaces?
11. A. Right.
12. Q. And what about your Yahoo account?
13. A. Edwardscottlloyd.
14. Q. Have you ever used either of those

15. accounts to -- for any professional purposes,
16. starting with your position at ORR?
17. A. Yes. I was -- I was having trouble
18. as my account was getting set up upon first going
19. into the government where -- because my first
20. name is Edward and my middle name is Scott.
21. My -- my official account became -- went into
22. disuse, and some people copied me on some email
23. traffic to my personal account and made note of
24. it. And I've since migrated all of that to my
25. work account.

0040

1. Q. Okay. Are these two accounts, the
2. Gmail account and the Yahoo account, still
3. active?
4. A. Uh-huh. Yes.
5. Q. Do you have any other email
6. accounts?
7. A. Yes.
8. Q. What are they?
9. A. S -- s.thomas.martin@gmail.com.
10. Q. And what's your connection to that
11. account?
12. A. It's a -- it was a contemplated
13. pending.

14. Q. That's a currently active account?

15. A. Uh-huh. Yes.

16. Q. Do you have any other email

17. accounts?

18. A. I don't think so.

19. Q. Do you use any text service?

20. A. I didn't hear the --

21. Q. Text. Do you use any text service?

22. Do you text?

23. A. Text?

24. Q. Texting on your phone.

25. A. Oh, okay. Yeah, just Apple and

0041

1. WhatsApp. And whatever the government provides

2. that looks like Apple.

3. THE COURT REPORTER: Whatever the

4. government provides . . .

5. THE WITNESS: I'm sorry. That

6. looks like Apple's app.

7. Q. So you have a text service that's

8. provided by the government that you can use for

9. your work purposes; is that correct?

10. A. Well, so if you look -- if you look

11. at an Apple iPhone, rather than using Apple's

12. email, you use the government's mail through --

13. and I think that texting is just the Apple app.
14. But the contacts don't talk to each other.
15. So out of an abundance of caution
16. I'm just telling you what --
17. Q. Caution's always a good idea.
18. A. -- looks like Apple.
19. Q. All right. Do you use any sort of
20. encrypted text service like Signal?
21. A. I -- I use WhatsApp.
22. Q. So does that mean you do not use
23. anything other than WhatsApp for texting?
24. A. Right. Yes.
25. Q. Okay. And since this is a service

0042

1. provided by the government, would it be fair to
2. say that you use that service for doing business
3. in your position as the director of ORR?
4. A. The Apple, yes, but not the
5. WhatsApp. That's -- I use that in my personal
6. capacity.
7. Q. Okay. All right. All right. I'm
8. going to ask you about -- some few basics about
9. your agency.
10. So you're in the Department of
11. Health and Human Services; is that correct?

12. A. Yes.

13. Q. Okay. Can you just, ballpark, give

14. me a sense of how you fit into the structure --

15. and by "you" I mean the office of refugee

16. resettlement -- into the DHHS structure?

17. A. The office of refugee resettlement

18. is part of the administration for children and

19. families, which is part of the department.

20. Q. All right. So is the 30,000-foot

21. structure the department administrations

22. including ACS, and then offices including your

23. office?

24. A. Uh-huh.

25. Q. Okay.

0043

1. A. Yes.

2. Q. Do you know why it is that ORR is

3. part of HHS?

4. A. Yes.

5. Q. Why is it?

6. A. This was the desire of Congress in

7. the Homeland Security Act.

8. Q. Okay. And do you recall when they

9. moved ORR into HHS?

10. A. 2002 was the statute, but I think

11. it didn't occur 'til 2003.

12. Q. And what's your understanding as to

13. why Congress wanted to move ORR into HHS?

14. A. It had been with INS. INS was

15. disappearing is one part of it. And then the

16. other part of it is because they wanted a child

17. welfare structure for unaccompanied alien

18. children in government custody.

19. Q. All right. And would it be fair to

20. say they wanted a child welfare structure instead

21. of a law enforcement structure?

22. A. Yes.

23. Q. Okay. What do you understand to be

24. the mission of ORR?

25. A. Well, we have three programs. The

0044

1. pro -- the -- for the administration of refugee

2. resettlement program, it's to serve refugees.

3. For unaccompanied alien children program, it's to

4. serve unaccompanied alien children. And for the

5. repatriation program it's to serve repatriated

6. Americans.

7. Q. Okay. With respect to the second,

8. which I'll just refer to as the UC program, if

9. you will, beyond the broad notion of serving

10. children, do you have a more specific sense of
11. what the mission of the agency is with respect to
12. that population?
13. A. Yes.
14. Q. What is that?
15. A. To care for them, pending their
16. release.
17. Q. Can you give me a sense of how ORR
18. is generally structured?
19. A. Yes.
20. Q. Please do.
21. A. We -- well, we have a number of
22. directors who report to me, but the simplest way
23. to put it is that the program is to -- is divided
24. into its main elements. The refugee
25. resettlement. And so the refugee resettlement

0045

1. takes care of that function and not -- typically
2. the UAC function. And there's a deputy director
3. who oversees that and reports to me.
4. And then similarly, with the
5. unaccompanied alien children program, there's
6. a --
7. THE COURT REPORTER: With the?
8. THE WITNESS: -- unaccompanied

9. alien children program.
10. A. -- our deputy director oversees it
11. and reports to me. And with the repatriation
12. program the repatriation specialist reports me as
13. well. And also the URM program unaccompanied
14. refugee minors program. But that sort of sits in
15. the refugee function.

16. Q. All right. So there are these
17. deputy directors that report to you, and I
18. understand they are heading the three separate
19. programmatic areas that you have?

20. A. Uh-huh.

21. Q. Can you continue to describe the
22. way ORR is organized, both in terms of what I
23. understand you refer to as headquarters, in
24. addition to whatever field components you have?

25. A. Sure. So the -- and are we

0046

1. speaking all -- or just unaccompanied alien
2. children?

3. Q. Let's first just talk generally
4. across all the programs.

5. A. Okay. So the repatriation program
6. is really run mostly out of headquarters. The
7. unaccompanied alien children program has field

8. staff. There's federal field staff supervisors
9. who oversee a number of federal field
10. specialists.

11. The refugee program, it's
12. administered through a regional structure that
13. mirrors the ACF region, regional structure.

14. Q. Okay. So with respect to the UC
15. program, let's focus on that now.

16. A. Uh-huh.

17. Q. So there -- you said there are
18. supervisors in the field and they supervise FFSs;
19. is that correct?

20. A. Yes.

21. Q. Okay. So how many supervisors are
22. there?

23. A. Right now we have five.

24. Q. And are they geographically
25. assigned?

0047

1. A. Yes.
2. Q. What are the geographic areas?
3. A. North -- generally, North --
4. Northeast, South -- or Northeast, Southeast,
5. Southwest, Northwest. I don't have the -- the
6. names of each geographic region committed to

7. memory.
8. Q. Who's the current supervisor for
9. the area that encompasses New York?
10. A. Elcy.
11. Q. That's Elcy Valdez?
12. A. Yes.
13. Q. Does she have supervisory
14. responsibility for areas outside of New York?
15. A. Yes.
16. Q. What are the other areas?
17. A. There are other areas throughout
18. the Northeast and the Mid-Atlantic.
19. Q. Okay. Do you know how many FFSS
20. she supervises?
21. A. I don't have that committed to
22. memory.
23. Q. Do you have an approximation?
24. A. Between eight and 12.
25. Q. Okay. How many total employees do

0048

1. you have in the UC program?
2. A. 150.
3. Q. And how many of them are in
4. headquarters as opposed to the field?
5. A. I don't know.

6. Q. Do you have an approximate size?
7. A. Not a very good one.
8. Q. Can you just tell me what the
9. step-by-step chain of command is between you and
10. Ms. Valdez.
11. A. Sure. It -- it's me, the deputy
12. director, and then Elcy.
13. Q. Have you had any conversations with
14. Ms. Valdez about this lawsuit?
15. A. No.
16. Q. Have you had any conversations with
17. her about this deposition?
18. A. No.
19. Q. As far as you know, does she know
20. that you're being deposed today?
21. A. I don't know.
22. Q. Who's the current deputy director?
23. A. Jallyn Sualog.
24. Q. Could you spell that, please?
25. A. J-A-L-L-Y-N.

0049

1. Q. And the last name?
2. A. Sualog. S-U-A-L-O-G.
3. Q. And how long has -- I'm sorry, is
4. it a Mr. or Ms.?

5. A. Ms.
6. Q. -- Ms. Sualog been the deputy
7. director?
8. A. She's acting right now. Since
9. March 15th, I believe.
10. Q. And who's her predecessor?
11. A. Jonathan White.
12. Q. And why is Mr. White no longer in
13. that position?
14. A. He left.
15. Q. Did he leave the government?
16. A. No.
17. Q. Where has he gone?
18. A. To another part of the department.
19. Assistant secretary for planning and respon --
20. preparedness and response.
21. Q. And just to be clear, when you say
22. "the department," you're talking about HHS?
23. A. Yes.
24. Q. Okay. What role, if any, did you
25. have in his departure?

0050

1. A. I don't know.
2. Q. Did anyone ever speak to you about
3. him being moved out of his position?

4. A. Jonathan told me that he accepted
5. another position elsewhere.
6. Q. Was that the first you learned of
7. the possibility of him no longer being your
8. deputy?
9. A. Yes.
10. Q. So is it your understanding that
11. he, without talking to you, applied for another
12. position and then accepted it, and then informed
13. you of that?
14. A. Yes.
15. Q. All right. To whom do you report?
16. A. To Steve Wagner.
17. Q. And who is Steve Wagner?
18. A. He's the acting assistant secretary
19. for ACF.
20. Q. All right. How often do you meet
21. with him?
22. A. At least weekly.
23. Q. And do you provide him with any
24. reports?
25. A. Yes.

0051

1. Q. What reports do you provide him?
2. A. At our weekly meeting, we discuss

3. all of the details of -- well, all of the
 4. pressing issues in the refugee -- all of the
 5. programs that we oversee.
6. Q. When's the last time you met with
7. him?
8. A. I -- I was not able to attend, due
9. to travel, our Tuesday meeting. So last Tuesday.
10. Although I spoke with him on the phone yesterday,
11. I believe.
12. Q. All right. So do you have a
13. regular Tuesday meeting with him?
14. A. Yes.
15. Q. Is that just the two of you or are
16. there other people in that meeting?
17. A. Other people.
18. Q. Who are the other people in that
19. meeting?
20. A. Jallyn usually -- Jallyn and Ken,
21. who's the deputy director for a refugee program.
22. My -- my special assistant. Usually -- sorry,
23. Joann Simmons, our budget director. Amanda
24. Barlow, who is director of OLAB.
25. THE COURT REPORTER: Director of?

0052

1. THE WITNESS: OLAB, O-L-A-B.

2. Office of legislation and budget.
 3. A. Brian Marriott, who is our director
 4. of communications. Anna Pilato, who is the
 5. assistant secretary for public affairs. Mary
 6. Powers, who is political adviser for the office
 7. of the assistant secretary. And Maggie Wynne
 8. usually attends or she sends Andrew Smith, who's
 9. her subordinate.
10. Q. And, I'm sorry, who's Ms. Wynne?
 11. A. She's counselor for the secretary.
 12. Q. For the secretary?
 13. A. Yeah.
 14. Q. Okay. And is it the standard
 15. practice of all these people to attend meetings?
 16. A. Yes.
 17. Q. The meetings?
 18. A. Yeah.
 19. Q. I mean, I understand, there will be
 20. some meetings where not all of them are
 21. necessarily there, but that's the normal group?
 22. A. Yeah.
 23. Q. All right. How long is the
 24. meeting?
 25. A. Hour, hour and 15 minutes.

0053

1. Q. And where does it take place?
2. A. In the conference room of the
3. assistant secretary.
4. Q. At this meeting has there ever been
5. a discussion about this lawsuit?
6. A. If so, only the fact of it. I
7. don't -- I don't know is probably the better
8. answer.
9. Q. All right. Fair enough. Let's
10. take another crack at it. As you sit here today,
11. do you recall any time at this meeting this
12. lawsuit being discussed?
13. A. No.
14. Q. Does Mr. Wagner know that you're
15. being deposed?
16. A. Yes.
17. Q. How does he know that?
18. A. Just, you know, in conversation I'd
19. say, "I'm not available Friday. I'm being
20. deposed."
21. Q. Do you have regular dealings with
22. him?
23. A. Yes.
24. Q. Would those be daily dealings at
25. times?

0054

1. A. Up to daily.
2. Q. Are you physically close to him in
3. terms of where your office is?
4. A. Yes. Yes. He's in the floor below
5. me.
6. Q. You mentioned that you were unable
7. to meet with him this week but you had a
8. conversation with him?
9. A. Yes.
10. Q. In that conversation was there any
11. discussion either about this lawsuit or your
12. deposition?
13. A. No. Just to re -- I -- that may
14. have been one of the times I reminded him that
15. I'm in a deposition today.
16. Q. At these regular Tuesday meetings,
17. is there any document that you bring to the
18. meeting or provide in anticipation of the meeting
19. about any aspect of the UC program?
20. A. An agenda for the meeting.
21. Q. Other than that, do you provide, in
22. conjunction with the meeting, any document that
23. talks about any aspect of the UC program?
24. A. Not as a routine matter, no.
25. Q. As a nonroutine matter, what sort

1. of documents have you from time to time provided
2. for purposes of this meeting about the UC
3. program?
4. A. Decision memos on proposed changes
5. and background memos on different aspects of the
6. program.
7. Q. All right. When you talk about
8. decision memos about proposed changes, are you
9. talking about proposed changes in policy?
10. A. Yes.
11. Q. Does it cover other things beyond
12. policy?
13. A. Just operations.
14. Q. And you said background memos.
15. What were you referring to when you
16. were talking about background memos?
17. A. Sometimes it's necessary to
18. describe why something is the way that it is, so
19. we would just prepare a background memo to
20. clarify that.
21. Q. All right. Do you recall, in the
22. time that you've been the director, ever
23. providing a background memo about any aspect of
24. the UC program?
25. A. Yes.

1. Q. What were those memos about?
2. A. Just -- just the fact of them.
3. Q. Okay. Can you recall for any of
4. them the topic of the memo?
5. A. Yeah. I mean, they -- they would
6. fall squarely in the deliberative space.
7. Q. Okay. So I know you're a lawyer.
8. Michael's the one that gets to express the
9. objections. So I'm not asking for the content of
10. them beyond the topic.
11. So can you recall the topic of any
12. of these background memos, to the extent they
13. relate to the UC program?
14. A. Capacity.
15. Q. Okay. Anything else that you
16. recall as a topic?
17. A. Community safety.
18. Q. Anything else?
19. A. No. It's really just different
20. aspects of capacity. Budget.
21. Q. Do you recall at this meeting ever
22. discussing the time it was taking to release
23. children in the UC program from ORR custody?
24. A. No.

25. Q. Have you ever provided, in

0057

1. conjunction with these meetings, any data or
2. other information for how long it's taking for
3. children to be released from ORR custody who are
4. in the UC program?

5. A. Yes.

6. Q. And what was that information or

7. data?

8. A. Just often we quantify in a number
9. of contexts. We -- we quantify overall release,
10. like the average release period or time in
11. cust -- custody.

12. Q. Okay. What's the most recent time

13. you recall providing that type of information in
14. conjunction with this meeting?

15. A. I don't know.

16. Q. Okay. Can you recall any instance,
17. setting aside date, when you provided this sort
18. of information?

19. A. Yes. I don't -- I don't recall the
20. context.

21. Q. Okay. What do you recall, if any,
22. about the form in which the data were presented?
23. A. Usually just a graph.

24. Q. Who prepares that graph?
25. A. We have staff in the UAC program

0058

1. who are able to crunch numbers and things for
2. that.
3. Q. Okay. Can you describe for me, for
4. any particular instance, setting aside the date,
5. what particular types of information were on that
6. graph?
7. A. It -- it would be average -- or
8. average length of stay, probably going back for a
9. few years.
10. Q. And does that graph break out
11. different categories of children who are in
12. custody?
13. A. Yeah. It would be by -- by
14. category of -- of sponsorship.
15. Q. And what do you mean by that?
16. A. We have different categories of
17. sponsor. And when we break that information out
18. we break it out according to sponsor.
19. Q. And so what are the categories you
20. have?
21. A. Category one is sponsorship by
22. parents. Category two is related adult, not

23. parent. Category three is unrelated adult.

24. Category four is no sponsorship prospects.

25. Q. What do you remember about what the

0059

1. average length of stay was, for the time that you
2. recall, setting aside the date again, for each of
3. these four categories?

4. A. I -- I have it in my mind as the
5. overall picture, not category by category.

6. Q. All right. What's the overall
7. picture you have in your mind?

8. A. It's been roughly steady at 45
9. days.

10. Q. And that's 45 days from when to
11. when?

12. A. From referral to release.

13. Q. And when you say "referral," what
14. are you referring to?

15. A. This is when one federal agency,
16. usually is Customs and Border Patrol, sometimes
17. it's ICE, and it could be others, Coast Guard,
18. for example, transfers custody from -- from
19. themselves to us.

20. Q. I see. All right. So that's the
21. period of time between when ORR receives the

22. child, if you will, in custody and ORR releases
23. the child in at least -- well, releases the
24. child?
25. A. Yes. To a sponsor.

0060

1. Q. To a sponsor. So that, by
2. definition, I take it, would involve categories
3. one through three?
4. A. Yes.
5. Q. Okay. All right. And when you say
6. it's held relatively steady at 45 days, over what
7. period of time are we talking about in terms of
8. the holding steady?
9. A. Since coming on.
10. Q. Since your coming on to your
11. position?
12. A. Yes.
13. Q. Okay. Beyond average length of
14. stay, any other data on these graphs?
15. A. No.
16. Q. Okay. And when you say it's a
17. graph, are we talking about like a one page --
18. A. It's a chart.
19. Q. A chart?
20. A. Yeah. It doesn't take up a page.

21. Q. It doesn't even take up a page?
22. A. No. Put it in the middle of the
23. page.
24. Q. All right. Are there other things
25. on the page or that's just it?

0061

1. A. Yeah. What I'm describing is -- is
2. information that we've put in a number of memos
3. and, you know, FOIA requests and media inquiries.
4. So we see that information a lot.
5. Q. All right. Going back again, and
6. we're talking about these meetings that take
7. place every Tuesday, is there any other data that
8. has been presented, even if only once or twice,
9. concerning children in the UC program?
10. A. Yes.
11. Q. What's the other data?
12. A. Well, for example, country of
13. origin is something that we . . .
14. Q. Anything else you can think of?
15. A. Let's see what I can think of. We
16. also -- we produce daily reports about our
17. capacity, the number of beds that we have.
18. Q. And are those sometimes provided in
19. conjunction with this meeting?

20. A. Yes. Every time. How many beds we
21. have. How many are occupied. How many are in
22. each of our categories of beds.
23. Q. Any other data?
24. A. Release trends.
25. Q. And what do you mean by "Release

0062

1. trends"?
2. A. Or, excuse me, referral trends and
3. release trends. These would be the trends of how
4. many UAC have exited our program in a day. And
5. there's trends over a period of time. How many
6. are referred into our program, and those trends
7. over a period of time. Capacity versus --
8. overall capacity versus encumbered capacity and
9. those trends over time, and so on.
10. MR. BYARS: Mr. Dunn, are we at a
11. good point for a break or would that be coming up
12. pretty soon?
13. MR. DUNN: If you'd like to take
14. break, that's fine.
15. THE VIDEOGRAPHER: Going off the
16. record at 10:34.
17. (Recess taken.)
18. THE VIDEOGRAPHER: We are going

19. back on the record at 10:43. This begins disk
20. No. 2.
21. BY MR. DUNN:
22. Q. Mr. Lloyd, you mentioned that at
23. this regular Tuesday meeting your special
24. assistant attends. Who is that person?
25. A. Amanda Dukes.

0063

1. Q. Is she an administrative -- excuse
2. me. Is she a substantive person or an
3. administrative person?
4. A. Administrative.
5. Q. At the meeting do you recall ever
6. having been provided any reports that
7. identifies --
8. A. I -- I should also say there's
9. another special assistant who's on maternity
10. leave, Laura White.
11. THE COURT REPORTER: What's the
12. name?
13. THE WITNESS: Laura White.
14. A. Who is able to -- she -- she does
15. have some substantive knowledge of things.
16. Q. At these meetings do you recall
17. ever having provided, beyond average length of

18. stay, information concerning the duration that
 19. children in the UC program have been in ORR
 20. custody?
21. A. I don't -- no.
22. Q. Who prepares those graphs that you
23. referred to?
24. A. It's our UAC staff. Usually it's
25. Olympia Belay, B-E-L-A-Y, who is tasked with

0064

1. that.
2. Q. Beyond your meetings with
3. Mr. Wagner, do you have any meetings with people
4. higher up in the hierarchy?
5. A. Yes.
6. Q. And what are those meetings?
7. A. Any number of meetings. Having to
8. do with the refugee or the UAC or the
9. repatriation program. And they could be with a
10. number of personnel depending on the topic.
11. Q. Do you recall any meetings
12. particularly about the issue of how long children
13. are remaining in ORR custody who are in the UC
14. program?
15. A. Not on that specific topic, no.
16. Q. Do you recall any such meetings

17. that have discussed this lawsuit?

18. A. No.

19. Q. Have you had any dealings since you

20. came to your current position with anyone in the

21. White House?

22. A. Yes.

23. Q. And what are those dealings?

24. A. Just various interactions related

25. to the programs we run.

0065

1. Q. Is there someone in particular

2. who's a contact for you there?

3. A. Usually we reach out to -- yes.

4. Q. Who is that person?

5. A. John Zdrozny.

6. THE COURT REPORTER: Spell the last

7. name, please.

8. THE WITNESS: Z-A-D-R-O-Z-N-Y.

9. Q. And what do you understand

10. Mr. Zdrozny's responsibilities to be in the

11. White House?

12. A. He is on the staff of the domestic

13. policy council related to immigration and issues.

14. Q. Have you ever had any conversations

15. with him about the length of time that children

16. are remaining in ORR custody?

17. A. Where that was -- no. Not where

18. that was the focus of the conversation.

19. Q. Well, do you recall any instance

20. where that was a topic of the conversation?

21. A. It was sort of an incidental

22. relating to the background and the operations of

23. the UAC program.

24. Q. And what do you specifically recall

25. discussing with him about the length of time

0066

1. children were remaining in ORR custody?

2. A. Probably just would be included

3. in -- in that graph.

4. Q. How often have you spoken to him?

5. A. I don't know.

6. Q. Can you approximate?

7. A. Yes.

8. Q. Approximately how often?

9. A. Once every month.

10. Q. And do you have a regularly

11. scheduled form of interaction with him, be it a

12. meeting or something else?

13. A. No.

14. Q. Do you from time to time email with

15. him?
16. A. Yes.
17. Q. Have you met with him in person?
18. A. Yes.
19. Q. How recently did you meet with him
20. in person?
21. A. He was at a meeting that I attended
22. on Monday.
23. Q. And what was the subject of that
24. meeting?
25. A. Immigration policy.

0067

1. Q. And what discussion was there, if
2. any, about children in the UC program?
3. A. Capacity.
4. Q. And by "Capacity," do you mean the
5. agency's capacity to have children in its
6. custody?
7. A. Bed capacity to -- for the kids to
8. stay in.
9. Q. All right. And was this
10. particularly in a category of placement? For
11. instance, secure?
12. A. No.
13. Q. Just about capacity in general?

14. A. Yes.
15. Q. Okay. And is the -- well, was
16. the -- more specifically, a discussion about
17. increasing capacity?
18. A. Reporting out on our general
19. situation regarding capacity.
20. Q. And what did you report?
21. A. Our current capacity. And
22. prospects for getting more capacity.
23. Q. And what specific did you report
24. about your current capacity and your prospects
25. for getting more capacity?

0068

1. A. Whatever the numbers were on
2. Monday, and the general possibilities of bringing
3. on more capacity.
4. Q. All right. And is that prompted by
5. a expectation you would have more children coming
6. into ORR custody?
7. A. Yes.
8. Q. Is that an ORR expectation or an
9. expectation from some other place?
10. A. It -- it's an expectation that's
11. widely held among people who are seeing the
12. current referral rates.

13. Q. What is the current number of
14. children who are in ORR custody?
15. A. It's about 8500.
16. Q. And given the referral rates that
17. you're referring to, what is the projection about
18. what's going to happen to that number in the
19. future?
20. A. It's going to continue to climb.
21. Q. And do you know what is driving
22. that climb?
23. A. It's our referral rate over our
24. discharge rate.
25. Q. So is that a function of both your

0069

1. having more referrals and fewer discharges?
2. A. Both fluctuate, but generally
3. there's been more referrals lately. And
4. discharge has been roughly steady with dips
5. recently.
6. Q. And what are the particulars of the
7. dips in the discharge?
8. A. Technol -- technolog -- technology
9. concerns, holidays.
10. Q. What are --
11. A. It ebbs and flows.

12. Q. Right.

13. A. Generally.

14. Q. Do you have a sense of the

15. numerical particulars of the recent dips?

16. A. Well, so our release per 100 UAC in

17. care went from the 1.4 range down to the .7

18. range. This is daily. And then back up to 1.2,

19. 1.3.

20. Q. When did it go from 1.4 to .7,

21. approximately?

22. A. Between now and the beginning of

23. the Easter holiday.

24. Q. Easter holiday of last year?

25. A. No. This past Easter holiday.

0070

1. Q. Okay. So is this something you

2. track on a regular basis?

3. A. Every day.

4. Q. Every day?

5. A. Yeah.

6. Q. All right. Do you get a written

7. report about that every day?

8. A. Yup. Yes. With many of the graphs

9. we discuss.

10. Q. All right. Well, we talked about

11. one graph. What other graphs do you get?
12. A. I mentioned all the graphs that I
13. can recall.
14. Q. Well, you mentioned the length of
15. stay graph?
16. A. Uh-huh.
17. Q. The average length of stay?
18. A. It's -- it's different -- well, no.
19. And I also mentioned referrals and discharges and
20. general capacity. All that's put into graph --
21. graph form.
22. Q. I understand. Okay.
23. And who is producing the daily
24. release ratio, if you'll excuse the expression,
25. information that you just mentioned?

0071

1. A. It's our data team in the
2. unaccompanied alien children program.
3. Q. Okay. All right. Other than the
4. issue of meeting more capacity at the meeting on
5. Monday with Mr. Zadrozny, any other aspects of
6. the UC program that you discussed?
7. A. Yes. Potential policy
8. developments.
9. Q. And what are they?

10. A. They -- they remain potential, and
11. I would ask that remains deliberative.
12. MR. BYARS: Are you asking for
13. deliberations, Mr. Dunn?
14. MR. DUNN: I'm just asking for the
15. topics. Just the topic.
16. Q. What's the topic of potential
17. policy developments?
18. A. Again, capacity. And, I don't
19. know, legal processing.
20. Q. And just as a topic, what do you
21. mean by "legal processing"?
22. A. Immigration courts. UAC and
23. immigration courts.
24. Q. Who else was in this meeting?
25. A. There -- there were a lot of

0072

1. people.
2. Q. Okay.
3. A. It was people from the interagency
4. and national security council and domestic policy
5. council.
6. Q. I'm sorry, interagency, domestic
7. policy council. What else did you mention?
8. A. National security council.

9. Q. Approximately how many people were
10. at this meeting?
11. A. 25.
12. Q. And where did the meeting take
13. place?
14. A. Executive office building.
15. Q. Do you recall ever having provided
16. to Mr. Zadrozny any information about the length
17. of time of children remaining in ORR custody?
18. A. I don't recall a specific instance.
19. I'd be surprised if I've not shared generally
20. that information.
21. Q. Have you ever talked to him about
22. this lawsuit?
23. A. No.
24. Q. Anyone else at the White House with
25. whom you've had interactions, other than just

0073

1. administrative things, concerning the UC program?
2. A. Yes.
3. Q. Who was that?
4. A. David Wedmore [ph] is no longer
5. there.
6. Q. What was his position?
7. A. He was -- he was part of the

8. domestic policy council overseeing immigration

9. concern.

10. Q. All right. Anybody else?

11. A. Well, so the original question is

12. all the people that I've met with from the White

13. House concerning --

14. Q. Any aspect of the UC program.

15. A. Zena Bash, who's no longer there.

16. Q. And what was his or her position?

17. A. It's -- it's the same. Oh, no.

18. She was -- I think she was a specialist assistant

19. to Steven Miller.

20. THE COURT REPORTER: A specialist?

21. THE WITNESS: Special assistant or

22. policy adviser.

23. Q. To whom?

24. A. Steven Miller. Steven Miller.

25. Justin Bristow. These are big meetings. There

0074

1. are some people from other departments. So I'm

2. just trying to think if there's anybody else from

3. the White House. Another person from the NSC

4. whose name I can't recall right now.

5. Q. What conversations did you have

6. with Mr. Miller about the UC program?

7. A. Background.
8. Q. Did you have any conversations with
9. him about any aspect of the release of children
10. in the UC program from ORR custody?
11. A. Yes.
12. Q. What were those conversations?
13. A. How it occurs. Background on
14. release.
15. Q. Beyond information about how it
16. occurs, any conversations you recall with him
17. about release?
18. A. Yeah.
19. Q. What are those?
20. A. Delib -- deliberative policy
21. discussions.
22. (Reporter-initiated discussion off
23. the record.)
24. Q. All right. So let's just stick to
25. the topics. I understand the point about

0075

1. privilege. You mentioned as a topic information
2. about the process. What are the topics that
3. you've discussed with him?
4. A. Capacity. And the overall UAC
5. program.

6. Q. Any conversations with him about
7. policies governing release of children from ORR
8. custody?
9. A. Likely.
10. Q. I'm sorry, lately?
11. A. Likely.
12. Q. Likely.
13. A. Yeah.
14. Q. Okay. Do you recall any particular
15. aspect of release policy that you likely
16. discussed with him?
17. A. I don't -- I don't recall right
18. now.
19. Q. Do you recall having spoken with
20. him about your role in release decisions by ORR?
21. A. No.
22. Q. Do you recall having spoken with
23. him about the time it was taking to release
24. children from ORR custody?
25. A. No.

0076

1. Q. Do you recall having conversation
2. with him about any aspect of alleged gang
3. affiliation of children in ORR custody?
4. A. Yes.

5. Q. And I asked you before if you had
6. any conversations with him concerning release
7. policies, and you said likely, and then you said
8. you didn't recall.

9. A. So another topic would be community
10. safety.

11. Q. The discussion you had with him
12. about gang affiliation, was that in conjunction
13. with the preparation of any policy?

14. A. Could you repeat the question?

15. Q. Yes.

16. MR. DUNN: Could you read it back,
17. please.

18. (Record read.)

19. A. No.

20. Q. Okay. So what's the conversation
21. you had with him?

22. A. Deliberative. Well, background.
23. Background about the UAC policy. Background
24. about community safety. Deliberative policy of
25. the session was about the UAC program.

0077

1. Q. All right. Well, I'm going to set
2. aside deliberative policy discussions. You said
3. that the conversation you had with him about

4. gangs was not in conjunction with consideration
5. of policy.

6. So what I'm asking you now is, I'd
7. like you to relate to me, as best you recall, the
8. specifics of the conversation you had with him
9. about gang affiliation allegedly of children in
10. ORR custody.

11. A. Just the background on what we knew
12. about gang affiliation within the UAC program and
13. background about the community safety initiative.

14. Q. Okay. When approximately do you
15. recall that conversation taking place?

16. A. Over the summer.

17. Q. And was that a single conversation?

18. A. No. A couple.

19. Q. And was this in person or by email
20. or both?

21. A. I've -- I've interacted with him a
22. few times by all means. In person and, you know,
23. email, phone, et cetera.

24. Q. All right. Do you recall providing
25. him any documents in conjunction with those

0078

1. conversations?
2. A. To him personally, I don't recall.

3. But I shared with people whom I figured would
4. share with him.

5. Q. And what are the documents?

6. A. Oh, yeah. Yeah. Some background
7. memos related to the things we talked about.

8. Q. Are those documents that you still
9. have?

10. A. Yes.

11. Q. I will just say, going forward, I
12. won't ask -- I won't mention this again, but I
13. would ask that any documents that we discuss
14. today that you still have that you do not in any
15. way discard those documents.

16. A. Fine. That's an easy ask.

17. Q. Okay. That's an easy ask.

18. Is it correct that you started at

19. D -- at HHS in February of last year?

20. A. Yes.

21. Q. All right. And you had a position
22. something like special advisor?

23. A. Yes.

24. Q. And what were your responsibilities
25. in that position?

0079

1. A. Really to begin the political

2. oversight of the office of refugee resettlement
3. and other tasks as requested or required.

4. Q. Who hired you into that position?

5. A. Tim Clark is the White House
6. liaison.

7. Q. And when you say to begin the
8. political oversight of ORR, what do you mean by
9. that?

10. A. Well, there's career staff and
11. there's political staff, and the new
12. administration the political staff was coming in,
13. and they occupy leadership positions. And so we
14. were beginning that process.

15. Q. And when -- is it -- is it fair to
16. say Mr. Clark hired you?

17. A. Yes.

18. Q. Okay. And when you were hired to
19. be the special adviser, did you understand at
20. that time that you'd become the director of ORR?

21. A. Can you repeat the question?

22. (Record read.)

23. A. No.

24. Q. Was the special adviser position
25. something you were recruited for?

0080

1. A. I don't recall.
2. Q. Well, do you remember applying for
3. a position that you just --
4. A. Yeah. Well, I applied and then --
5. and then, you know, I received some questions as
6. to whether I'd be interested in joining the team,
7. and I don't remember which came first.
8. Q. Okay. What specific duties did you
9. have with respect to ORR as the special adviser
10. starting in February of 2017?
11. A. Really it was to begin the process
12. of interacting with career staff and getting
13. briefed up, as the career staff does with new
14. political leadership, on various outstanding
15. issues that greets that leadership.
16. Q. All right. So does that mean that
17. you, for instance, were going in to and
18. personally meeting with ORR career staff, for
19. instance, like Mr. White --
20. A. Yes.
21. Q. -- during that period of time?
22. A. Yes.
23. Q. All right. And would it be fair to
24. say just generally that was for purposes of
25. getting the lay of the land in anticipation of

0081

1. the administration putting in new political
2. people to lead the agency?
3. A. Yes.
4. Q. As part of that work, did you
5. review agency -- and I'm referring to ORR --
6. policies relating to the UC program?
7. A. Yes.
8. Q. And did that include reviewing
9. release policies?
10. A. Yes.
11. Q. And what was the specific review
12. you were doing with respect to release policies?
13. A. Just general background on the
14. operation of the entire program. And -- but one
15. of the outstanding issues that carried into our
16. administration was -- was the expansion of the
17. release policy.
18. Q. And what do you mean by that?
19. A. We added release review -- explicit
20. release review process to our release policy, and
21. a number of other items to -- to the release
22. policy. And that had already -- that process had
23. begun when I came on.
24. Q. All right. So you're referring, I
25. take it, to -- when you say review of releases,

1. you're talking about director review?
2. A. Well, it's director review and then
3. review of the director's review.
4. THE COURT REPORTER: Review of the
5. director?
6. THE WITNESS: Director's review.
7. (Reporter-initiated discussion off
8. the record.)
9. THE COURT REPORTER: Director
10. review and then review of the director's review.
11. THE WITNESS: Yeah. Or I could say
12. appeal. Make it shorter.
13. Q. What's the first conversation you
14. recall having when you were the special adviser
15. about changing or reviewing ORR release policies?
16. A. That would have been part of the
17. initial briefing on the -- the various
18. outstanding issues. So I don't recall the
19. specific conversation where I was briefed --
20. briefed on the pending release review process.
21. Q. Okay. Did someone direct you, when
22. you were the special adviser, to examine the
23. release policies and practices of ORR?
24. A. No.
25. Q. Was that something you did on your

1. own initiative?
2. A. Yes.
3. Q. And who was supervising your work
4. at that time?
5. A. Well, it depends on the time that
6. you're referring to.
7. Q. All right. Well, as I understand
8. it, you started in the special adviser role
9. sometime in February of 2017?
10. A. Yes.
11. Q. You became the director sometime in
12. March of 2017?
13. A. Uh-huh.
14. Q. So I'm talking about in that period
15. of time.
16. A. So upon becoming director, the
17. acting assistant secretary was Amanda Barlow, and
18. I reported to her. She was directing my
19. activity.
20. Q. But, again, I'm talking about
21. before you became director.
22. A. Before --
23. Q. During the time you were the
24. special supervisor and you're doing the political

25. overview --

0084

1. A. Yeah.
2. Q. -- who was directing your work at
3. that time?
4. A. I -- I would say it was probably
5. mostly Maggie Wynne. Tim Clark had a functional
6. component of that.
7. Q. And what was Maggie Wynne's
8. position at that time?
9. A. It was, as it was with all the
10. beachhead team, unclear. Some general name.
11. Policy adviser.
12. Q. All right. Was she a government
13. employee at that time?
14. A. Yes.
15. Q. During the time you were acting as
16. a special adviser, did you receive any particular
17. training orientation about the work of ORR?
18. A. I would use the word "briefing."
19. Q. Okay. All right. So you became
20. the director sometime at the end of March of
21. 2017. Do you recall the particular date you
22. became the director?
23. A. The 24th.

24. Q. 24th, okay. And how'd you get that
25. position?

0085

1. A. Well, I applied for a job on the --
2. on the HHS team, and eventually received a call
3. back, and had a series of interviews, and then
4. came on as part of the transition. Was assigned
5. director of office of refugee resettlement. And
6. then there's a process of that becoming final as
7. a matter of HR and -- and everything else.

8. Q. So are you saying that during the
9. time you were the special adviser that you
10. applied to formally become the director of ORR?

11. A. Yeah, in an informal way.

12. Q. All right. So what's the informal
13. way in which you applied?

14. A. It was first floated to me that I'd
15. be the deputy director, and I made it clear that
16. I'd be interested in the director.

17. Q. And with whom did you have that
18. conversation?

19. A. Maggie Wynne and Tim Clark.

20. Q. All right. And would it be fair to
21. say, then, that in the way that these things
22. happen, you were asked to become the director and

23. you became the director?

24. A. Yes.

25. Q. Okay. In your current position do

0086

1. you have authority to hire and fire staff?

2. A. Yes.

3. Q. Which staff do you hire and fire?

4. A. Any staff that comes on subject to

5. rules and regulations, statutes. Labor

6. agreements that surround that, those actions.

7. Q. All right. During your time as a

8. director, have you hired or dismissed anybody?

9. A. Yes.

10. Q. Who did you either hire or dismiss?

11. A. We've had a number of staff that

12. have come on. I mean, you're asking a very broad

13. question that's kind of nuanced. Some people are

14. reassigned to -- to our office, and it wasn't

15. really a hiring process.

16. Some would have completed the

17. hiring process and finally completed after me

18. coming on. Some are contractors where it's the

19. contracting agency that actually does the hiring

20. and we're bringing on the contract position.

21. So was the question how many or

22. who?

23. Q. It was who, but let's set that

24. aside for a moment.

25. A. Sure.

0087

1. Q. With respect to the deputy

2. directors who report directly to you --

3. A. Yes.

4. Q. -- are those positions that you are

5. free to fill yourself?

6. A. Yes.

7. Q. And did you replace any of the

8. deputy directors when you assumed responsibility

9. in March of 2017?

10. A. No.

11. Q. Other than Mr. White, has any of

12. the other deputy directors changed in your time

13. in the director position?

14. A. No.

15. Q. What responsibility, if -- if any,

16. do you have for reviewing cases of individual

17. children who are in ORR custody? And I am not

18. limiting this to the UC program.

19. A. Could you repeat the question?

20. (Record read.)

21. A. I review substances into the
22. unaccompanied refugee minor program. And also in
23. certain circumstances I review the release or --
24. yeah, the release decisions for the unaccompanied
25. alien children program.

0088

1. (Reporter-initiated discussion off
2. the record.)
3. Q. Any other individual decisions you
4. review or in fact make with respect to children
5. in ORR custody?
6. A. Significant medical procedures.
7. Q. And what --
8. A. This is me personally?
9. Q. You personally.
10. A. Okay.
11. Q. What significant medical procedures
12. do you personally review or make?
13. A. Any of them that require anesthesia
14. or surgery.
15. Q. Any other categories of medical
16. procedures?
17. A. No.
18. Q. Do you make any decisions
19. concerning medications for children in custody?

20. A. No.

21. Q. Other than URM acceptances, some

22. releases in the UC program, and significant

23. medical procedures, are there any other types of

24. individual situations that you personally review

25. and decide with respect to children in UC -- in

0089

1. ORR custody?

2. A. No.

3. Q. With respect to the URM

4. acceptances, during the time --

5. A. If I could, there's one question of

6. medication that I was asked to review, but it was

7. an unsolicited request. And I deferred to the

8. medical -- the medical coordinator of the

9. program. And that was covered in my last

10. deposition.

11. Q. All right. And just so we're clear

12. about this, when you say your last deposition,

13. you're talking about the deposition concerning

14. your role in abortion decision making?

15. A. Yes.

16. Q. That was in December of last year?

17. A. Yes. Or it would have been the

18. same -- same round, but different -- one of those

19. two depositions.
20. Q. Okay. Do you play any personal
21. role in decisions within the UC program to
22. transfer children from one type of placement to
23. another?
24. A. Not on a routine basis.
25. Q. All right. So let's go back to the

0090

1. URM acceptances. Approximately how many times
2. have you personally reviewed those individual
3. acceptances during your tenure?
4. A. It would be hundreds. It would be
5. several a week.
6. Q. And how much time, as a general
7. rule, do you have to spend for each of those
8. cases?
9. A. Five minutes, 10 minutes.
10. Q. With respect to the medical
11. procedures, how many of those cases would you say
12. you've reviewed during your tenure?
13. A. It's similar to the URM program.
14. Q. Okay. And how much time, as a
15. general matter, are you spending on those cases?
16. A. Five to 10 minutes.
17. Q. The issue about medication, you

18. said there was one unsolicited request. I just
19. want to get it correct. So you've gotten it that
20. one time. Not part of a standard practice.
21. Someone sent it to you.
22. And, as I understand your
23. testimony, you essentially deferred to the field
24. staff on that?
25. A. Yes.

0091

1. Q. Okay. And then you said with
2. respect to step-ups or step-downs, to use your
3. vernacular, I said placement changes, you said
4. not on a routine basis?
5. A. Yes.
6. Q. How often have you reviewed
7. specific decisions about placement decisions
8. during your tenure?
9. A. I can't recall a specific instance.
10. However, I'd be surprised if this is the type of
11. thing that hasn't come up to me once or twice
12. because of some exigent circumstance.
13. Q. All right. So I take it, as you
14. sit here today, at least, you don't have any
15. recollection of a particular instance in which
16. you've done this; is that correct?

17. A. Yes.

18. Q. All right. And then with respect
19. to, and we'll talk about this more, of course,
20. but with the release decisions for some children
21. in the UC program, how many times have you done
22. that during your tenure where you've reviewed a
23. case?

24. A. Dozens, I would say.

25. Q. And how much time, as a general

0092

1. matter, are you -- have you been spending on
2. those individual reviews?
3. A. It depends. They're typically more
4. complex than a medical procedure which, with
5. regard to medical procedures, are usually some
6. degree of routine. But the release decisions
7. that come up to me are the ones that are by
8. definition not routine release decisions.
9. So there have been some that are --
10. we've spent more than an hour on, and some that I
11. would say generally about a half an hour to an
12. hour.
13. Q. All right. We'll come back to
14. that.
15. Other than your regular Tuesday

16. meeting, do you have other regularly scheduled
17. meetings during your week?

18. A. Yes.

19. Q. Don't we all. All right.

20. How much -- how many hours do you

21. have of regularly scheduled meetings during a
22. typical week?

23. A. Six to eight.

24. Q. And in a typical week, how many

25. hours end up getting consumed with meetings that

0093

1. are not regularly scheduled but just arise in the
2. normal course of affairs?

3. A. Another 12.

4. Q. Do you ever visit the field?

5. A. Yes.

6. Q. How often do you do that?

7. A. We try to go once a month. That's

8. a rule of thumb.

9. Q. Beyond meetings that are taking
10. place, are there other regular commitments you

11. have during your work week that require

12. substantial time?

13. A. Yeah. Writing, responding to

14. emails. Preparing background memos and things of

15. that sort, yeah.
16. Q. How many hours a week, as a general
17. matter, would you say those sorts of
18. responsibilities are required?
19. A. Another 20 to 30 to 40.
20. Q. You mentioned that at this point
21. you believe there are about 8500 children in your
22. custody?
23. A. Yes.
24. Q. How many children came into ORR
25. custody in 2017, if you know? And I'm asking

0094

1. calendar year, if you know.
2. A. Oh, calendar year? We just had it
3. by fiscal year.
4. (Reporter-initiated discussion off
5. the record.)
6. Q. And what's the number for the most
7. recent fiscal year?
8. A. It was 41,000. In that
9. neighborhood.
10. Q. Okay. So just so I understand,
11. that's October 1 through September 30, 2016, to
12. 2017?
13. A. Yes.

14. Q. Okay. And that's your 2017 fiscal
15. year?
16. A. Yes.
17. Q. All right. Do you know what the
18. comparable number was for 2016?
19. A. 59,000 and change.
20. Q. And do you know about 2015?
21. A. 33,000 and change.
22. Q. Okay. You have on your website an
23. annual report for 2015. At least on the website
24. there are not any more recent annual reports.
25. Are there more recent annual

0095

1. reports that you know of?
2. A. To the -- the annual report to
3. Congress?
4. Q. Yes.
5. A. It's in clearance.
6. Q. It's in clearance. Okay. So
7. there's 20' -- is 2016 coming?
8. A. Yes.
9. Q. You mentioned -- well, let me back
10. up.
11. I understand you were in New York
12. earlier this week?

13. A. Yes.
14. Q. You spoke at the U.N.?
15. A. Yes.
16. Q. All right. You said at that event
17. that in December 2016, as I recall, that the
18. agency had 12,000 children in custody?
19. A. Yes.
20. Q. Do you recall that?
21. A. Yes.
22. Q. All right. Is that an accurate
23. number?
24. A. Yes.
25. Q. All right. And we have seen a

0096

1. document that indicates that in June of 2017 the
2. total number of children in ORR UC program was
3. 2400. Are you familiar with that number?
4. A. That sounds right. Sounds a little
5. low, but . . .
6. Q. And just to be clear, the 12,000
7. number that you mentioned at the U.N. panel, that
8. was children in the UC program; correct?
9. A. Yes.
10. Q. All right. So do you have a sense
11. as to how we went from or you went from 12,000 in

12. December 2016 to somewhere around 2400 in June of
13. 2017 to 8500 now?

14. A. Yes.

15. Q. What's your understanding of that?

16. A. There is an -- it was a historic
17. drop in referrals that lasted, if memory serves,
18. probably until about June. It was accompanied by
19. a historic high rate of discharges for an
20. extended period, and I don't remember how long
21. that occurred. But the main driver was the
22. different referrals compared to a relatively
23. steady or high rate of discharge.

24. Q. All right. And that is during the,
25. if you will, December of 2016 to approximately

0097

1. June 2017 period you're talking about?

2. A. Yes.

3. Q. All right. And did those trends

4. then reverse afterwards?

5. A. Yes. The referrals started to pick

6. up. And the discharges, going to various

7. variables, that -- that fluctuates somewhere

8. between 1.2, 1.7 per 100 kids per day.

9. Q. All right. Do you know how many

10. children are in ORR custody in New York as of

11. now?

12. A. I don't have that committed to

13. memory.

14. Q. Do you get state-specific reports

15. from time to time about the number of kids in

16. custody?

17. A. We get reports of beds, and that --

18. that would be at hand, if -- if needed.

19. Q. Since the filing of this lawsuit,

20. which was February 16th of this year, do you know

21. of any changes in the number of children who have

22. been moved to New York to be placed in ORR

23. facilities there?

24. A. No.

25. Q. Do you know of any directives,

0098

1. written or otherwise, concerning the movement of

2. children into New York since the filing of this

3. lawsuit?

4. A. No.

5. Q. If there were such a directive, do

6. you think you would know about it?

7. A. Yes.

8. Q. In terms of children coming into

9. ORR custody, you mentioned that they typically

10. come from other agencies. And I think you
11. mentioned particularly DHS and perhaps sometimes
12. the Coast Guard?
13. A. Yeah.
14. Q. Do the other ones come in from
15. other agencies?
16. A. Not typically.
17. Q. And at least in terms of -- in
18. terms of releases, as I understand it, these
19. children can be released and reunified with a
20. sponsor or placed with a sponsor. Some children
21. will age out. Some children will take voluntary
22. departure?
23. A. Yes.
24. Q. Are there other ways in which
25. children leave ORR custody?

0099

1. A. Well, sometimes the sponsor is a
2. long time -- long-term foster care.
3. Q. Okay. So would you consider that
4. to be, at least the way I'm talking about,
5. continuing in ORR custody?
6. A. No. That would -- that would be a
7. release.
8. Q. That would be a release?

9. A. Yeah. And those tend to be our
10. category four kids.
11. Q. Uh-huh. Okay. So other than
12. release, age out, voluntary departure, are there
13. any other ways that children leave ORR custody?
14. A. No.
15. Q. Do you have a sense, of the time
16. that you have been the director of the
17. distribution of children leaving ORR custody
18. between those various categories, mainly
19. reunification, age outs, or voluntary departure?
20. A. Oh. It's the -- mostly your
21. reunification, by -- by a wide margin. But more
22. specific than that, I would say at least
23. 60 percent. But what are expected to be higher.
24. That's a conservative estimate.
25. Q. And do you have any sense of the

0100

1. percentages of age outs or voluntary departures?
2. A. That would be small. That would --
3. I would expect that to be less than 10 per --
4. 10 percent.
5. Q. And have those small percentages
6. changed in any meaningful way over the course of
7. your tenure?

8. A. I don't know.
9. Q. Is that something you get reporting
10. about, in terms of the way people -- children are
11. leaving your custody?
12. A. Not regularly.
13. Q. You get it from time to time?
14. A. Yes.
15. Q. All right. In terms of the most
16. recent report that you got, setting aside when
17. you got it, what's your recollection about the
18. distribution of children leaving custody in these
19. different categories?
20. A. That's my best recollection of
21. that.
22. Q. At least 60 percent, less than
23. 10 percent, less than 10 percent?
24. A. Yeah. The age outs would be a -- a
25. larger category than voluntary departure.

0101

1. Q. And the age outs are then -- in
2. that situation, they're transferred to ICE; is
3. that correct?
4. A. Yes.
5. Q. All right. With respect to your
6. placement types, is it fair to say that you have

7. as placement types secure, staff secure, shelter,
8. foster care, and therapeutic?
9. A. Yes.
10. Q. All right. So that's -- those five
11. categories. Can you just give me a thumbnail
12. sketch of what you consider to be the essential
13. characteristics of each of those five categories?
14. A. Well, therapeutic would be an
15. instance where there's a physical or mental
16. condition that requires special care.
17. Long-term foster is -- is where,
18. you know, you have sponsorship prospects from one
19. of the family.
20. Secure is where there's been --
21. where there's a danger to one's self or to
22. others.
23. Staff secure is where there's some
24. sort of misbehavior. It could be along the lines
25. of danger to self or others, but tends to be more

0102

1. flight risk.
2. And shelter would be the vast
3. majority of our population where there's not a --
4. a concern over safety to one's self or to others,
5. or a flight risk.

6. Q. For the 8500 children who are
7. currently in custody, what's your best estimate
8. of either the numbers or percentages of your
9. population are each -- in each of these five
10. placement types?

11. A. Long-term foster, I'd have to ask
12. somebody. And the same with therapeutic.
13. In secure, I believe the last time
14. I checked there is a -- it was in the high 60s.
15. And staff secure that -- that would
16. be between one and 200, and then the rest would
17. be shelter.

18. Q. And when you say "one to 200," is
19. that a figure -- that's your best recollection of
20. what the figure is, or is that a capacity figure?

21. A. It's -- it's one or the other.
22. It's one or the other, yeah.

23. Q. Okay. What's your understanding of
24. what your shelter capacity is -- excuse me, your
25. secured capacity?

0103

1. A. 8 -- 89, I believe.
2. Q. And your staff secure?
3. A. My guess would be like 190, but I
4. would have to check.

5. Q. Okay. What are the various ways in
6. which a child in ORR custody would end up in a
7. secure placement?

8. A. Assaulting another UAC or a staff
9. member. Establishing a pattern of violent
10. behavior. Gang affiliation.

11. Q. Anything else?

12. A. I think in most instances where
13. there's an attempt at an escape they would be in
14. staff secure, rather than secure. If there was
15. attempts at escape accompanied by violent or
16. disruptive behavior, it could be in -- in secure.

17. Q. Of the current high 60s number of
18. kids who are in secure placement as of now,
19. what's your best sense of the extent to which
20. they are in for any of the four different reasons
21. that you mentioned?

22. A. I think they're all in for those
23. reasons.

24. Q. Sorry. I meant the distribution.

25. A. Oh. I see. The distribution?

0104

1. Q. Uh-huh.
2. A. Most -- most all of them would
3. be -- so -- so we have violent and disruptive

4. behavior. There -- that's -- that's the story of
5. secure.

6. Q. That's most of them?

7. A. Yeah.

8. Q. Okay. And I understand what you're
9. saying about attempt to escape, if paired with
10. perhaps violent and disruptive behavior, would
11. also get you in secure?

12. A. Yeah. I'm not -- I'm not aware of
13. a situation where an escape attempt alone would
14. wind somebody up in secure, unless it was --
15. somebody had tried every day to escape, for
16. example. But that is speculative.

17. Q. And then -- so then what that
18. leaves us is gang affiliation. How many of the
19. people are we talking of the 60 might be in that
20. category?

21. A. Probably five to 10, number-wise.

22. Q. And --

23. A. If that.

24. Q. If that, okay. And in terms of
25. this distribution, is this typical of the

0105

1. distribution of kids in secured during your
2. tenure?

3. A. Yes.
4. Q. Is this something you get a regular
5. report about, in terms of the characteristics of
6. kids in secure?
7. A. No.
8. Q. What sort of reporting do you get,
9. if any, about the number of kids who are in
10. secure or staff secure placements?
11. A. It's just as needed, and as it
12. comes up in various conversations.
13. Q. Is that information, though, the
14. agency regularly has available to it?
15. A. Yeah. It would be available
16. roughly whenever we needed it.
17. Q. Since the time you have been the
18. director, can you estimate how many children in
19. ORR custody have been in secure placement?
20. A. If I were to venture a guess, and I
21. think it would be a bad guess.
22. Q. All right. We don't want you to
23. make a bad guess, but I would like you to make an
24. estimate as best you can, to the extent that you
25. can.

0106

1. A. I would say 300.

2. Q. And then in terms of staff secure
3. what would be your best estimate?
4. A. 600.
5. Q. And do you happen to know when you
6. became the director how many kids at that time
7. were in either staff secure or secure?
8. A. It -- the numbers have held steady
9. since me coming on, according to my recollection.
10. Q. Okay. So, for instance, to the
11. extent that your estimate today is high 60s for
12. secure, and 100 to 200 for staff secure, your
13. sense is it would have been about the same
14. numbers in March of 2017?
15. A. Can you repeat the numbers?
16. Q. I think you had said that as of now
17. you estimated that the number of kids in secure
18. was the high 60s, and the number of kids in staff
19. secure was 100 to 200.
20. A. Okay.
21. Q. So assuming I have that right, and
22. assuming that you're saying you think the numbers
23. have held over time --
24. A. Sure.
25. Q. -- would it be fair to say it's

0107

1. your sense, as you sit here today, that when you
 2. became the director that those were the types of
 3. numbers of kids who were in either secure or
 4. staff secure at that time?
5. MR. BYARS: Object to the form.
6. You may answer.
7. A. That's specul -- specul -- okay. I
8. think that's -- that's roughly right. However,
 9. you know, there -- there was the change that
 10. we're aware of that gang affiliation would result
 11. in initial secure placement, which may have
 12. increased the number of -- of people in our
 13. secure placement slightly, but more than
 14. 20 percent I'd be surprised.
15. Q. Okay. With respect to moving kids
16. from facility to facility, is that something that
 17. ORR does on a regular basis?
18. A. Yes.
19. Q. All right. And does ORR also, as a
20. regular basis, move children around to different
 21. parts of the country?
22. A. Yes.
23. Q. Is that something you have pretty
24. much complete control over?
25. A. Yeah. Yes.

0108

1. Q. What regular interactions does ORR
 2. have with law enforcement personnel, either
 3. federal or local?
4. A. We -- well, at initial referral
 5. it's usually from a law enforcement from CDP or
 6. ICE. And at the -- at release ORR reports the
 7. details of the release, to UAC and the sponsor,
 8. to the local ICE field staff, FOJC, field office
 9. juvenile coordinator.
10. THE WITNESS: Field office juvenile
 11. coordinator.
12. THE COURT REPORTER: Coordinator.
13. Q. All right. So you're having at
 14. least contact with them when the child comes into
 15. your custody. You're saying you provide them
 16. notification upon release. Beyond that, what
 17. sort of interactions does the agency have with
 18. law enforcement?
19. A. Well, that's on a case-by-case
 20. basis. So if a kid commits a crime while in --
 21. in our care, then we would have interaction with
 22. law enforcement at that point. If there's been
 23. an escape attempt -- attempt or leave or
 24. information, or if law enforcement learns
 25. information about gang affiliation or crimes

1. committed, then there would be interaction at
2. that point.
3. And we've also, as part of
4. community safety engagement, we've -- we're
5. beginning the process of bringing law enforcement
6. into -- into our shelters and -- and -- well,
7. into our shelters in order to give gang -- gang
8. resistance training, which is -- which is
9. administered by a law enforcement officer.
10. (Reporter-initiated discussion off
11. the record.)
12. A. It's called the GREAT program,
13. which is similar to the DARE program, but if you
14. ask me what GREAT stands for, I draw a blank.
15. Q. Okay. I'm sorry --
16. (Reporter-initiated discussion off
17. the record.)
18. A. G-R-E-A-T. Gang resistance. I
19. don't know.
20. Q. Do you yourself have any ongoing
21. interactions with any law enforcement agencies in
22. New York?
23. A. In New York. I wouldn't describe
24. them as ongoing. I've had discussions with law
25. enforcement entities in New York.

1. Q. What are the entities?
2. A. Personnel.
3. Q. So what are the entities or
4. personnel you've had discussions with?
5. A. I've had discussions with Suffolk
6. County Commissioner's office.
7. Q. And what is --
8. A. The police commissioner's office.
9. Q. The police commissioner's office.
10. And what were those discussions?
11. A. To discuss the nexus or -- yeah, I
12. guess you could say nexus, between gang suspects
13. that they had in custody and the UAC program.
14. Q. Did those discussions include any
15. discussions about release of children in ORR
16. custody?
17. A. More -- more along the -- well,
18. yeah. I think so.
19. Q. And what were the particulars of
20. that discussion?
21. A. It would be providing -- it would
22. be general background about what -- what they see
23. regarding release of unaccompanied alien children
24. into their community, and then us providing

25. background about our release processes and

0111

1. sponsorship processes.

2. MR. BYARS: Would now be a good

3. time for another break, Mr. Dunn?

4. MR. DUNN: I'm happy to take

5. another break, if this is the time you would

6. break. How are we doing on time? What time is

7. it?

8. MR. BYARS: It's about 10 of 12.

9. Why don't we just take a couple of minutes.

10. MR. DUNN: Sure.

11. THE VIDEOGRAPHER: Going off the

12. record at 11:49.

13. (Recess taken.)

14. (Luncheon recess: 11:48 a.m.)

15

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0112

1. A F T E R N O O N S E S S I O N
2. (1:04 p.m.)
3. EDWARD SCOTT LLOYD,
4. having been previously sworn, resumed the
5. stand and testified further as follows:
6. THE VIDEOGRAPHER: We are going
7. back on record at 1:05. This begins disk No. 3.
8. EXAMINATION (Cont'd.) BY
9. COUNSEL FOR PLAINTIFFS/PETITIONERS
10. BY MR. DUNN:
 11. Q. Mr. Lloyd, I want to go back and
 12. ask you a couple of quick things.
 13. A. Uh-huh.
 14. Q. You said that you might, in a
 15. couple instances, have been involved with a
 16. individual case involving a placement decision?
 17. A. Yes.
 18. Q. Let me ask you this: Are any of
 19. those decisions being elevated to headquarters
 20. and being reviewed by somebody else?
 21. A. So there's a couple of questions
 22. there. Can I start with the first part?

23. Q. Sure.
24. A. Is it being -- I wouldn't use the
25. term "elevated." Much or most of what we do in

0113

1. the agency we copy, if it's an email, for
2. visibility purposes, personnel at the department,
3. and usually -- usually that's Maggie Wynne
4. because she has jurisdiction over our issues.
5. And then so do we elevate and
6. review, I think if we could -- I'd like to answer
7. the question yes.

8. Q. Okay. So what I'm trying to get at
9. is, I understood from your testimony, but correct
10. me if I'm wrong, that you do not personally,
11. except for perhaps one or two instances you don't
12. remember, review and make decisions about
13. displacement movements of children in the UC
14. program; is that correct?

15. A. Typically, I am not involved in
16. that.

17. Q. Okay.

18. A. It's only in the rare instance
 19. where I'm involved in placement and movement,
 20. transfer.
21. Q. Is anybody else in the headquarters

22. staff involved with the review and decision
23. making about step-ups or step-downs?
24. A. Not in a typical matter. Unless
25. there's some complication in a case, this is the

0114

1. federal field staff that makes the decision.
2. Q. And during your tenure as
3. director -- and how many instances as a general
4. matter are you aware of in those unusual
5. circumstances headquarters staff being involved
6. in deciding about placement decisions?
7. A. In those rare instances?
8. Q. Yes.
9. A. A handful.
10. Q. Okay.
11. A. Less than five.
12. Q. Okay. With respect to the
13. distribution of outcomes of people leaving ORR
14. custody, you said that at least 60 percent were
15. being released?
16. A. Yes.
17. Q. Were you including in that movement
18. of children to long-term foster care?
19. A. No.
20. Q. All right. So is that what I would

21. describe as reunification with a sponsor?
22. A. Long-term foster care, is that --
23. Q. No, the 60 percent?
24. A. Oh. Yes, yes.
25. Q. All right. And when you estimated

0115

1. 8500 children are currently in ORR custody, that
2. includes or excludes long-term foster care?
3. A. That includes. That includes all
4. levels.
5. Q. And what would be your estimate, if
6. you have one, of how many children are in
7. long-term foster care?
8. A. 40.
9. Q. 40 total?
10. A. Yes.
11. Q. Long-term foster care?
12. A. Yes.
13. Q. You talked about tracking on, I
14. think you said, a daily basis their release rate.
15. And you mentioned ranges from .7 percent to
16. 1.4 percent.
17. What was the release rate at the
18. time you became the director in March of 2017?
19. A. I don't remember.

20. Q. Do you have any recollection of
21. release rates at any point in time during the
22. spring of 2017?
23. A. No. I -- I -- just that it was
24. generally slightly higher.
25. Q. And slightly higher than what is a

0116

1. typical rate? Is that what you mean by that?
2. A. Yeah. We started out the year
3. with -- with a -- yeah, somewhat higher than the
4. typical rate. I think our typical rate is, at
5. least since I've been looking at it, 1.4 to 1.5.
6. We started out with maybe some -- somewhere more
7. like 1.6.
8. Q. And you're talking about the
9. beginning of 2017?
10. A. Yes.
11. Q. Okay. Within the agency, within
12. ORR, how many political appointees are there who
13. had responsibility for the UC program?
14. A. Three.
15. Q. And who are those three?
16. A. It's myself, Pedro Moreno, and Kim,
17. Kimberley Womack.
18. Q. And who are the second two?

19. A. Pedro Moreno is the principal
20. deputy director, and Kimberley Womack is a policy
21. adviser.
22. Q. Is she a policy adviser to you?
23. A. Yes. They both report directly to
24. me.
25. Q. You mentioned, as I understood it,

0117

1. that there were five supervisory FFSs in the
2. agency?
3. A. Yes.
4. Q. Have any of the five of them -- are
5. any of the five current supervisors new to that
6. position since you became the director?
7. A. No.
8. Q. Okay. So, to be clear, when you
9. came in in March of 2017, the five incumbent
10. supervisory FFSs were in those positions?
11. A. Yes.
12. Q. Does the agency have any reports
13. that you know of that report on the duration of
14. children in ORR custody who are or have been in
15. secure or staff secure?
16. A. There are no regular reports. If
17. somebody asks for that information, we could get

18. it.

19. Q. All right. So I take it by that,
20. you mean, but just confirm it, you have data from
21. which those reports could be compiled, but those
22. reports are not compiled as of now?

23. A. Correct.

24. Q. Okay. And who's got -- is that
25. data that's in the possession of ORR?

0118

1. A. Yes.

2. Q. Okay. And you have staff here in
3. headquarters who use that data from time to time
4. to produce reports?

5. A. Yes.

6. Q. All right. If you were going to
7. ask somebody to compile that information, who
8. would be the person you would ask?

9. A. I would ask Jallyn Sualog, who
10. would ask Olympia Belay.

11. (Reporter-initiated discussion off
12. the record.)

13. Q. Does the agency produce reports of
14. kids who are in ORR custody who are or have been
15. in secure or staff secure and that have been in
16. custody for more than a particular point in time,

8. staff. There's federal field staff supervisors
9. who oversee a number of federal field
10. specialists.

11. The refugee program, it's
12. administered through a regional structure that
13. mirrors the ACF region, regional structure.

14. Q. Okay. So with respect to the UC
15. program, let's focus on that now.

16. A. Uh-huh.

17. Q. So there -- you said there are
18. supervisors in the field and they supervise FFSs;
19. is that correct?

20. A. Yes.

21. Q. Okay. So how many supervisors are
22. there?

23. A. Right now we have five.

24. Q. And are they geographically
25. assigned?

0047

1. A. Yes.
2. Q. What are the geographic areas?
3. A. North -- generally, North --
4. Northeast, South -- or Northeast, Southeast,
5. Southwest, Northwest. I don't have the -- the
6. names of each geographic region committed to

7. memory.
8. Q. Who's the current supervisor for
9. the area that encompasses New York?
10. A. Elcy.
11. Q. That's Elcy Valdez?
12. A. Yes.
13. Q. Does she have supervisory
14. responsibility for areas outside of New York?
15. A. Yes.
16. Q. What are the other areas?
17. A. There are other areas throughout
18. the Northeast and the Mid-Atlantic.
19. Q. Okay. Do you know how many FFSs
20. she supervises?
21. A. I don't have that committed to
22. memory.
23. Q. Do you have an approximation?
24. A. Between eight and 12.
25. Q. Okay. How many total employees do

0048

1. you have in the UC program?
2. A. 150.
3. Q. And how many of them are in
4. headquarters as opposed to the field?
5. A. I don't know.

6. Q. Do you have an approximate size?
7. A. Not a very good one.
8. Q. Can you just tell me what the
9. step-by-step chain of command is between you and
10. Ms. Valdez.
11. A. Sure. It -- it's me, the deputy
12. director, and then Elcy.
13. Q. Have you had any conversations with
14. Ms. Valdez about this lawsuit?
15. A. No.
16. Q. Have you had any conversations with
17. her about this deposition?
18. A. No.
19. Q. As far as you know, does she know
20. that you're being deposed today?
21. A. I don't know.
22. Q. Who's the current deputy director?
23. A. Jallyn Sualog.
24. Q. Could you spell that, please?
25. A. J-A-L-L-Y-N.

0049

1. Q. And the last name?
2. A. Sualog. S-U-A-L-O-G.
3. Q. And how long has -- I'm sorry, is
4. it a Mr. or Ms.?

5. A. Ms.
6. Q. -- Ms. Sualog been the deputy
7. director?
8. A. She's acting right now. Since
9. March 15th, I believe.
10. Q. And who's her predecessor?
11. A. Jonathan White.
12. Q. And why is Mr. White no longer in
13. that position?
14. A. He left.
15. Q. Did he leave the government?
16. A. No.
17. Q. Where has he gone?
18. A. To another part of the department.
19. Assistant secretary for planning and respon --
20. preparedness and response.
21. Q. And just to be clear, when you say
22. "the department," you're talking about HHS?
23. A. Yes.
24. Q. Okay. What role, if any, did you
25. have in his departure?

0050

1. A. I don't know.
2. Q. Did anyone ever speak to you about
3. him being moved out of his position?

4. A. Jonathan told me that he accepted
5. another position elsewhere.
6. Q. Was that the first you learned of
7. the possibility of him no longer being your
8. deputy?
9. A. Yes.
10. Q. So is it your understanding that
11. he, without talking to you, applied for another
12. position and then accepted it, and then informed
13. you of that?
14. A. Yes.
15. Q. All right. To whom do you report?
16. A. To Steve Wagner.
17. Q. And who is Steve Wagner?
18. A. He's the acting assistant secretary
19. for ACF.
20. Q. All right. How often do you meet
21. with him?
22. A. At least weekly.
23. Q. And do you provide him with any
24. reports?
25. A. Yes.

0051

1. Q. What reports do you provide him?
2. A. At our weekly meeting, we discuss

3. all of the details of -- well, all of the
 4. pressing issues in the refugee -- all of the
 5. programs that we oversee.
6. Q. When's the last time you met with
7. him?
8. A. I -- I was not able to attend, due
9. to travel, our Tuesday meeting. So last Tuesday.
10. Although I spoke with him on the phone yesterday,
11. I believe.
12. Q. All right. So do you have a
13. regular Tuesday meeting with him?
14. A. Yes.
15. Q. Is that just the two of you or are
16. there other people in that meeting?
17. A. Other people.
18. Q. Who are the other people in that
19. meeting?
20. A. Jallyn usually -- Jallyn and Ken,
21. who's the deputy director for a refugee program.
22. My -- my special assistant. Usually -- sorry,
23. Joann Simmons, our budget director. Amanda
24. Barlow, who is director of OLAB.
25. THE COURT REPORTER: Director of?

0052

1. THE WITNESS: OLAB, O-L-A-B.

2. Office of legislation and budget.
 3. A. Brian Marriott, who is our director
 4. of communications. Anna Pilato, who is the
 5. assistant secretary for public affairs. Mary
 6. Powers, who is political adviser for the office
 7. of the assistant secretary. And Maggie Wynne
 8. usually attends or she sends Andrew Smith, who's
 9. her subordinate.
10. Q. And, I'm sorry, who's Ms. Wynne?
 11. A. She's counselor for the secretary.
 12. Q. For the secretary?
 13. A. Yeah.
 14. Q. Okay. And is it the standard
 15. practice of all these people to attend meetings?
 16. A. Yes.
 17. Q. The meetings?
 18. A. Yeah.
 19. Q. I mean, I understand, there will be
 20. some meetings where not all of them are
 21. necessarily there, but that's the normal group?
 22. A. Yeah.
 23. Q. All right. How long is the
 24. meeting?
 25. A. Hour, hour and 15 minutes.

0053

1. Q. And where does it take place?
2. A. In the conference room of the
3. assistant secretary.
4. Q. At this meeting has there ever been
5. a discussion about this lawsuit?
6. A. If so, only the fact of it. I
7. don't -- I don't know is probably the better
8. answer.
9. Q. All right. Fair enough. Let's
10. take another crack at it. As you sit here today,
11. do you recall any time at this meeting this
12. lawsuit being discussed?
13. A. No.
14. Q. Does Mr. Wagner know that you're
15. being deposed?
16. A. Yes.
17. Q. How does he know that?
18. A. Just, you know, in conversation I'd
19. say, "I'm not available Friday. I'm being
20. deposed."
21. Q. Do you have regular dealings with
22. him?
23. A. Yes.
24. Q. Would those be daily dealings at
25. times?

0054

1. A. Up to daily.
2. Q. Are you physically close to him in
3. terms of where your office is?
4. A. Yes. Yes. He's in the floor below
5. me.
6. Q. You mentioned that you were unable
7. to meet with him this week but you had a
8. conversation with him?
9. A. Yes.
10. Q. In that conversation was there any
11. discussion either about this lawsuit or your
12. deposition?
13. A. No. Just to re -- I -- that may
14. have been one of the times I reminded him that
15. I'm in a deposition today.
16. Q. At these regular Tuesday meetings,
17. is there any document that you bring to the
18. meeting or provide in anticipation of the meeting
19. about any aspect of the UC program?
20. A. An agenda for the meeting.
21. Q. Other than that, do you provide, in
22. conjunction with the meeting, any document that
23. talks about any aspect of the UC program?
24. A. Not as a routine matter, no.
25. Q. As a nonroutine matter, what sort

1. of documents have you from time to time provided
2. for purposes of this meeting about the UC
3. program?
4. A. Decision memos on proposed changes
5. and background memos on different aspects of the
6. program.
7. Q. All right. When you talk about
8. decision memos about proposed changes, are you
9. talking about proposed changes in policy?
10. A. Yes.
11. Q. Does it cover other things beyond
12. policy?
13. A. Just operations.
14. Q. And you said background memos.
15. What were you referring to when you
16. were talking about background memos?
17. A. Sometimes it's necessary to
18. describe why something is the way that it is, so
19. we would just prepare a background memo to
20. clarify that.
21. Q. All right. Do you recall, in the
22. time that you've been the director, ever
23. providing a background memo about any aspect of
24. the UC program?
25. A. Yes.

1. Q. What were those memos about?
2. A. Just -- just the fact of them.
3. Q. Okay. Can you recall for any of
4. them the topic of the memo?
5. A. Yeah. I mean, they -- they would
6. fall squarely in the deliberative space.
7. Q. Okay. So I know you're a lawyer.
8. Michael's the one that gets to express the
9. objections. So I'm not asking for the content of
10. them beyond the topic.
11. So can you recall the topic of any
12. of these background memos, to the extent they
13. relate to the UC program?
14. A. Capacity.
15. Q. Okay. Anything else that you
16. recall as a topic?
17. A. Community safety.
18. Q. Anything else?
19. A. No. It's really just different
20. aspects of capacity. Budget.
21. Q. Do you recall at this meeting ever
22. discussing the time it was taking to release
23. children in the UC program from ORR custody?
24. A. No.

25. Q. Have you ever provided, in

0057

1. conjunction with these meetings, any data or
2. other information for how long it's taking for
3. children to be released from ORR custody who are
4. in the UC program?

5. A. Yes.

6. Q. And what was that information or

7. data?

8. A. Just often we quantify in a number
9. of contexts. We -- we quantify overall release,
10. like the average release period or time in
11. cust -- custody.

12. Q. Okay. What's the most recent time

13. you recall providing that type of information in
14. conjunction with this meeting?

15. A. I don't know.

16. Q. Okay. Can you recall any instance,
17. setting aside date, when you provided this sort
18. of information?

19. A. Yes. I don't -- I don't recall the
20. context.

21. Q. Okay. What do you recall, if any,
22. about the form in which the data were presented?
23. A. Usually just a graph.

24. Q. Who prepares that graph?
25. A. We have staff in the UAC program

0058

1. who are able to crunch numbers and things for
2. that.
3. Q. Okay. Can you describe for me, for
4. any particular instance, setting aside the date,
5. what particular types of information were on that
6. graph?
7. A. It -- it would be average -- or
8. average length of stay, probably going back for a
9. few years.
10. Q. And does that graph break out
11. different categories of children who are in
12. custody?
13. A. Yeah. It would be by -- by
14. category of -- of sponsorship.
15. Q. And what do you mean by that?
16. A. We have different categories of
17. sponsor. And when we break that information out
18. we break it out according to sponsor.
19. Q. And so what are the categories you
20. have?
21. A. Category one is sponsorship by
22. parents. Category two is related adult, not

23. parent. Category three is unrelated adult.

24. Category four is no sponsorship prospects.

25. Q. What do you remember about what the

0059

1. average length of stay was, for the time that you
2. recall, setting aside the date again, for each of
3. these four categories?

4. A. I -- I have it in my mind as the
5. overall picture, not category by category.

6. Q. All right. What's the overall
7. picture you have in your mind?

8. A. It's been roughly steady at 45
9. days.

10. Q. And that's 45 days from when to
11. when?

12. A. From referral to release.

13. Q. And when you say "referral," what
14. are you referring to?

15. A. This is when one federal agency,
16. usually is Customs and Border Patrol, sometimes
17. it's ICE, and it could be others, Coast Guard,
18. for example, transfers custody from -- from
19. themselves to us.

20. Q. I see. All right. So that's the
21. period of time between when ORR receives the

22. child, if you will, in custody and ORR releases
23. the child in at least -- well, releases the
24. child?
25. A. Yes. To a sponsor.

0060

1. Q. To a sponsor. So that, by
2. definition, I take it, would involve categories
3. one through three?
4. A. Yes.
5. Q. Okay. All right. And when you say
6. it's held relatively steady at 45 days, over what
7. period of time are we talking about in terms of
8. the holding steady?
9. A. Since coming on.
10. Q. Since your coming on to your
11. position?
12. A. Yes.
13. Q. Okay. Beyond average length of
14. stay, any other data on these graphs?
15. A. No.
16. Q. Okay. And when you say it's a
17. graph, are we talking about like a one page --
18. A. It's a chart.
19. Q. A chart?
20. A. Yeah. It doesn't take up a page.

21. Q. It doesn't even take up a page?
22. A. No. Put it in the middle of the
23. page.
24. Q. All right. Are there other things
25. on the page or that's just it?

0061

1. A. Yeah. What I'm describing is -- is
2. information that we've put in a number of memos
3. and, you know, FOIA requests and media inquiries.
4. So we see that information a lot.
5. Q. All right. Going back again, and
6. we're talking about these meetings that take
7. place every Tuesday, is there any other data that
8. has been presented, even if only once or twice,
9. concerning children in the UC program?
10. A. Yes.
11. Q. What's the other data?
12. A. Well, for example, country of
13. origin is something that we . . .
14. Q. Anything else you can think of?
15. A. Let's see what I can think of. We
16. also -- we produce daily reports about our
17. capacity, the number of beds that we have.
18. Q. And are those sometimes provided in
19. conjunction with this meeting?

20. A. Yes. Every time. How many beds we
21. have. How many are occupied. How many are in
22. each of our categories of beds.
23. Q. Any other data?
24. A. Release trends.
25. Q. And what do you mean by "Release

0062

1. trends"?
2. A. Or, excuse me, referral trends and
3. release trends. These would be the trends of how
4. many UAC have exited our program in a day. And
5. there's trends over a period of time. How many
6. are referred into our program, and those trends
7. over a period of time. Capacity versus --
8. overall capacity versus encumbered capacity and
9. those trends over time, and so on.
10. MR. BYARS: Mr. Dunn, are we at a
11. good point for a break or would that be coming up
12. pretty soon?
13. MR. DUNN: If you'd like to take
14. break, that's fine.
15. THE VIDEOGRAPHER: Going off the
16. record at 10:34.
17. (Recess taken.)
18. THE VIDEOGRAPHER: We are going

19. back on the record at 10:43. This begins disk
20. No. 2.
21. BY MR. DUNN:
22. Q. Mr. Lloyd, you mentioned that at
23. this regular Tuesday meeting your special
24. assistant attends. Who is that person?
25. A. Amanda Dukes.

0063

1. Q. Is she an administrative -- excuse
2. me. Is she a substantive person or an
3. administrative person?
4. A. Administrative.
5. Q. At the meeting do you recall ever
6. having been provided any reports that
7. identifies --
8. A. I -- I should also say there's
9. another special assistant who's on maternity
10. leave, Laura White.
11. THE COURT REPORTER: What's the
12. name?
13. THE WITNESS: Laura White.
14. A. Who is able to -- she -- she does
15. have some substantive knowledge of things.
16. Q. At these meetings do you recall
17. ever having provided, beyond average length of

18. stay, information concerning the duration that
 19. children in the UC program have been in ORR
 20. custody?
21. A. I don't -- no.
22. Q. Who prepares those graphs that you
23. referred to?
24. A. It's our UAC staff. Usually it's
25. Olympia Belay, B-E-L-A-Y, who is tasked with

0064

1. that.
2. Q. Beyond your meetings with
3. Mr. Wagner, do you have any meetings with people
4. higher up in the hierarchy?
5. A. Yes.
6. Q. And what are those meetings?
7. A. Any number of meetings. Having to
8. do with the refugee or the UAC or the
9. repatriation program. And they could be with a
10. number of personnel depending on the topic.
11. Q. Do you recall any meetings
12. particularly about the issue of how long children
13. are remaining in ORR custody who are in the UC
14. program?
15. A. Not on that specific topic, no.
16. Q. Do you recall any such meetings

17. that have discussed this lawsuit?

18. A. No.

19. Q. Have you had any dealings since you

20. came to your current position with anyone in the

21. White House?

22. A. Yes.

23. Q. And what are those dealings?

24. A. Just various interactions related

25. to the programs we run.

0065

1. Q. Is there someone in particular

2. who's a contact for you there?

3. A. Usually we reach out to -- yes.

4. Q. Who is that person?

5. A. John Zdrozny.

6. THE COURT REPORTER: Spell the last

7. name, please.

8. THE WITNESS: Z-A-D-R-O-Z-N-Y.

9. Q. And what do you understand

10. Mr. Zdrozny's responsibilities to be in the

11. White House?

12. A. He is on the staff of the domestic

13. policy council related to immigration and issues.

14. Q. Have you ever had any conversations

15. with him about the length of time that children

16. are remaining in ORR custody?

17. A. Where that was -- no. Not where

18. that was the focus of the conversation.

19. Q. Well, do you recall any instance

20. where that was a topic of the conversation?

21. A. It was sort of an incidental

22. relating to the background and the operations of

23. the UAC program.

24. Q. And what do you specifically recall

25. discussing with him about the length of time

0066

1. children were remaining in ORR custody?

2. A. Probably just would be included

3. in -- in that graph.

4. Q. How often have you spoken to him?

5. A. I don't know.

6. Q. Can you approximate?

7. A. Yes.

8. Q. Approximately how often?

9. A. Once every month.

10. Q. And do you have a regularly

11. scheduled form of interaction with him, be it a

12. meeting or something else?

13. A. No.

14. Q. Do you from time to time email with

15. him?
16. A. Yes.
17. Q. Have you met with him in person?
18. A. Yes.
19. Q. How recently did you meet with him
20. in person?
21. A. He was at a meeting that I attended
22. on Monday.
23. Q. And what was the subject of that
24. meeting?
25. A. Immigration policy.

0067

1. Q. And what discussion was there, if
2. any, about children in the UC program?
3. A. Capacity.
4. Q. And by "Capacity," do you mean the
5. agency's capacity to have children in its
6. custody?
7. A. Bed capacity to -- for the kids to
8. stay in.
9. Q. All right. And was this
10. particularly in a category of placement? For
11. instance, secure?
12. A. No.
13. Q. Just about capacity in general?

14. A. Yes.
15. Q. Okay. And is the -- well, was
16. the -- more specifically, a discussion about
17. increasing capacity?
18. A. Reporting out on our general
19. situation regarding capacity.
20. Q. And what did you report?
21. A. Our current capacity. And
22. prospects for getting more capacity.
23. Q. And what specific did you report
24. about your current capacity and your prospects
25. for getting more capacity?

0068

1. A. Whatever the numbers were on
2. Monday, and the general possibilities of bringing
3. on more capacity.
4. Q. All right. And is that prompted by
5. a expectation you would have more children coming
6. into ORR custody?
7. A. Yes.
8. Q. Is that an ORR expectation or an
9. expectation from some other place?
10. A. It -- it's an expectation that's
11. widely held among people who are seeing the
12. current referral rates.

13. Q. What is the current number of
14. children who are in ORR custody?
15. A. It's about 8500.
16. Q. And given the referral rates that
17. you're referring to, what is the projection about
18. what's going to happen to that number in the
19. future?
20. A. It's going to continue to climb.
21. Q. And do you know what is driving
22. that climb?
23. A. It's our referral rate over our
24. discharge rate.
25. Q. So is that a function of both your

0069

1. having more referrals and fewer discharges?
2. A. Both fluctuate, but generally
3. there's been more referrals lately. And
4. discharge has been roughly steady with dips
5. recently.
6. Q. And what are the particulars of the
7. dips in the discharge?
8. A. Technol -- technolog -- technology
9. concerns, holidays.
10. Q. What are --
11. A. It ebbs and flows.

12. Q. Right.

13. A. Generally.

14. Q. Do you have a sense of the

15. numerical particulars of the recent dips?

16. A. Well, so our release per 100 UAC in

17. care went from the 1.4 range down to the .7

18. range. This is daily. And then back up to 1.2,

19. 1.3.

20. Q. When did it go from 1.4 to .7,

21. approximately?

22. A. Between now and the beginning of

23. the Easter holiday.

24. Q. Easter holiday of last year?

25. A. No. This past Easter holiday.

0070

1. Q. Okay. So is this something you

2. track on a regular basis?

3. A. Every day.

4. Q. Every day?

5. A. Yeah.

6. Q. All right. Do you get a written

7. report about that every day?

8. A. Yup. Yes. With many of the graphs

9. we discuss.

10. Q. All right. Well, we talked about

11. one graph. What other graphs do you get?
12. A. I mentioned all the graphs that I
13. can recall.
14. Q. Well, you mentioned the length of
15. stay graph?
16. A. Uh-huh.
17. Q. The average length of stay?
18. A. It's -- it's different -- well, no.
19. And I also mentioned referrals and discharges and
20. general capacity. All that's put into graph --
21. graph form.
22. Q. I understand. Okay.
23. And who is producing the daily
24. release ratio, if you'll excuse the expression,
25. information that you just mentioned?

0071

1. A. It's our data team in the
2. unaccompanied alien children program.
3. Q. Okay. All right. Other than the
4. issue of meeting more capacity at the meeting on
5. Monday with Mr. Zadrozny, any other aspects of
6. the UC program that you discussed?
7. A. Yes. Potential policy
8. developments.
9. Q. And what are they?

10. A. They -- they remain potential, and
11. I would ask that remains deliberative.
12. MR. BYARS: Are you asking for
13. deliberations, Mr. Dunn?
14. MR. DUNN: I'm just asking for the
15. topics. Just the topic.
16. Q. What's the topic of potential
17. policy developments?
18. A. Again, capacity. And, I don't
19. know, legal processing.
20. Q. And just as a topic, what do you
21. mean by "legal processing"?
22. A. Immigration courts. UAC and
23. immigration courts.
24. Q. Who else was in this meeting?
25. A. There -- there were a lot of

0072

1. people.
2. Q. Okay.
3. A. It was people from the interagency
4. and national security council and domestic policy
5. council.
6. Q. I'm sorry, interagency, domestic
7. policy council. What else did you mention?
8. A. National security council.

9. Q. Approximately how many people were
10. at this meeting?
11. A. 25.
12. Q. And where did the meeting take
13. place?
14. A. Executive office building.
15. Q. Do you recall ever having provided
16. to Mr. Zadrozny any information about the length
17. of time of children remaining in ORR custody?
18. A. I don't recall a specific instance.
19. I'd be surprised if I've not shared generally
20. that information.
21. Q. Have you ever talked to him about
22. this lawsuit?
23. A. No.
24. Q. Anyone else at the White House with
25. whom you've had interactions, other than just

0073

1. administrative things, concerning the UC program?
2. A. Yes.
3. Q. Who was that?
4. A. David Wedmore [ph] is no longer
5. there.
6. Q. What was his position?
7. A. He was -- he was part of the

8. domestic policy council overseeing immigration

9. concern.

10. Q. All right. Anybody else?

11. A. Well, so the original question is

12. all the people that I've met with from the White

13. House concerning --

14. Q. Any aspect of the UC program.

15. A. Zena Bash, who's no longer there.

16. Q. And what was his or her position?

17. A. It's -- it's the same. Oh, no.

18. She was -- I think she was a specialist assistant

19. to Steven Miller.

20. THE COURT REPORTER: A specialist?

21. THE WITNESS: Special assistant or

22. policy adviser.

23. Q. To whom?

24. A. Steven Miller. Steven Miller.

25. Justin Bristow. These are big meetings. There

0074

1. are some people from other departments. So I'm

2. just trying to think if there's anybody else from

3. the White House. Another person from the NSC

4. whose name I can't recall right now.

5. Q. What conversations did you have

6. with Mr. Miller about the UC program?

7. A. Background.
8. Q. Did you have any conversations with
9. him about any aspect of the release of children
10. in the UC program from ORR custody?
11. A. Yes.
12. Q. What were those conversations?
13. A. How it occurs. Background on
14. release.
15. Q. Beyond information about how it
16. occurs, any conversations you recall with him
17. about release?
18. A. Yeah.
19. Q. What are those?
20. A. Delib -- deliberative policy
21. discussions.
22. (Reporter-initiated discussion off
23. the record.)
24. Q. All right. So let's just stick to
25. the topics. I understand the point about

0075

1. privilege. You mentioned as a topic information
2. about the process. What are the topics that
3. you've discussed with him?
4. A. Capacity. And the overall UAC
5. program.

6. Q. Any conversations with him about
7. policies governing release of children from ORR
8. custody?
9. A. Likely.
10. Q. I'm sorry, lately?
11. A. Likely.
12. Q. Likely.
13. A. Yeah.
14. Q. Okay. Do you recall any particular
15. aspect of release policy that you likely
16. discussed with him?
17. A. I don't -- I don't recall right
18. now.
19. Q. Do you recall having spoken with
20. him about your role in release decisions by ORR?
21. A. No.
22. Q. Do you recall having spoken with
23. him about the time it was taking to release
24. children from ORR custody?
25. A. No.

0076

1. Q. Do you recall having conversation
2. with him about any aspect of alleged gang
3. affiliation of children in ORR custody?
4. A. Yes.

5. Q. And I asked you before if you had
6. any conversations with him concerning release
7. policies, and you said likely, and then you said
8. you didn't recall.

9. A. So another topic would be community
10. safety.

11. Q. The discussion you had with him
12. about gang affiliation, was that in conjunction
13. with the preparation of any policy?

14. A. Could you repeat the question?

15. Q. Yes.

16. MR. DUNN: Could you read it back,
17. please.

18. (Record read.)

19. A. No.

20. Q. Okay. So what's the conversation
21. you had with him?

22. A. Deliberative. Well, background.
23. Background about the UAC policy. Background
24. about community safety. Deliberative policy of
25. the session was about the UAC program.

0077

1. Q. All right. Well, I'm going to set
2. aside deliberative policy discussions. You said
3. that the conversation you had with him about

4. gangs was not in conjunction with consideration
5. of policy.

6. So what I'm asking you now is, I'd
7. like you to relate to me, as best you recall, the
8. specifics of the conversation you had with him
9. about gang affiliation allegedly of children in
10. ORR custody.

11. A. Just the background on what we knew
12. about gang affiliation within the UAC program and
13. background about the community safety initiative.

14. Q. Okay. When approximately do you
15. recall that conversation taking place?

16. A. Over the summer.

17. Q. And was that a single conversation?

18. A. No. A couple.

19. Q. And was this in person or by email
20. or both?

21. A. I've -- I've interacted with him a
22. few times by all means. In person and, you know,
23. email, phone, et cetera.

24. Q. All right. Do you recall providing
25. him any documents in conjunction with those

0078

1. conversations?
2. A. To him personally, I don't recall.

3. But I shared with people whom I figured would
4. share with him.

5. Q. And what are the documents?

6. A. Oh, yeah. Yeah. Some background
7. memos related to the things we talked about.

8. Q. Are those documents that you still
9. have?

10. A. Yes.

11. Q. I will just say, going forward, I
12. won't ask -- I won't mention this again, but I
13. would ask that any documents that we discuss
14. today that you still have that you do not in any
15. way discard those documents.

16. A. Fine. That's an easy ask.

17. Q. Okay. That's an easy ask.

18. Is it correct that you started at

19. D -- at HHS in February of last year?

20. A. Yes.

21. Q. All right. And you had a position
22. something like special advisor?

23. A. Yes.

24. Q. And what were your responsibilities
25. in that position?

0079

1. A. Really to begin the political

2. oversight of the office of refugee resettlement
3. and other tasks as requested or required.

4. Q. Who hired you into that position?

5. A. Tim Clark is the White House
6. liaison.

7. Q. And when you say to begin the
8. political oversight of ORR, what do you mean by
9. that?

10. A. Well, there's career staff and
11. there's political staff, and the new
12. administration the political staff was coming in,
13. and they occupy leadership positions. And so we
14. were beginning that process.

15. Q. And when -- is it -- is it fair to
16. say Mr. Clark hired you?

17. A. Yes.

18. Q. Okay. And when you were hired to
19. be the special adviser, did you understand at
20. that time that you'd become the director of ORR?

21. A. Can you repeat the question?

22. (Record read.)

23. A. No.

24. Q. Was the special adviser position
25. something you were recruited for?

0080

1. A. I don't recall.
2. Q. Well, do you remember applying for
3. a position that you just --
4. A. Yeah. Well, I applied and then --
5. and then, you know, I received some questions as
6. to whether I'd be interested in joining the team,
7. and I don't remember which came first.
8. Q. Okay. What specific duties did you
9. have with respect to ORR as the special adviser
10. starting in February of 2017?
11. A. Really it was to begin the process
12. of interacting with career staff and getting
13. briefed up, as the career staff does with new
14. political leadership, on various outstanding
15. issues that greets that leadership.
16. Q. All right. So does that mean that
17. you, for instance, were going in to and
18. personally meeting with ORR career staff, for
19. instance, like Mr. White --
20. A. Yes.
21. Q. -- during that period of time?
22. A. Yes.
23. Q. All right. And would it be fair to
24. say just generally that was for purposes of
25. getting the lay of the land in anticipation of

0081

1. the administration putting in new political
2. people to lead the agency?
3. A. Yes.
4. Q. As part of that work, did you
5. review agency -- and I'm referring to ORR --
6. policies relating to the UC program?
7. A. Yes.
8. Q. And did that include reviewing
9. release policies?
10. A. Yes.
11. Q. And what was the specific review
12. you were doing with respect to release policies?
13. A. Just general background on the
14. operation of the entire program. And -- but one
15. of the outstanding issues that carried into our
16. administration was -- was the expansion of the
17. release policy.
18. Q. And what do you mean by that?
19. A. We added release review -- explicit
20. release review process to our release policy, and
21. a number of other items to -- to the release
22. policy. And that had already -- that process had
23. begun when I came on.
24. Q. All right. So you're referring, I
25. take it, to -- when you say review of releases,

1. you're talking about director review?
2. A. Well, it's director review and then
3. review of the director's review.
4. THE COURT REPORTER: Review of the
5. director?
6. THE WITNESS: Director's review.
7. (Reporter-initiated discussion off
8. the record.)
9. THE COURT REPORTER: Director
10. review and then review of the director's review.
11. THE WITNESS: Yeah. Or I could say
12. appeal. Make it shorter.
13. Q. What's the first conversation you
14. recall having when you were the special adviser
15. about changing or reviewing ORR release policies?
16. A. That would have been part of the
17. initial briefing on the -- the various
18. outstanding issues. So I don't recall the
19. specific conversation where I was briefed --
20. briefed on the pending release review process.
21. Q. Okay. Did someone direct you, when
22. you were the special adviser, to examine the
23. release policies and practices of ORR?
24. A. No.
25. Q. Was that something you did on your

1. own initiative?
2. A. Yes.
3. Q. And who was supervising your work
4. at that time?
5. A. Well, it depends on the time that
6. you're referring to.
7. Q. All right. Well, as I understand
8. it, you started in the special adviser role
9. sometime in February of 2017?
10. A. Yes.
11. Q. You became the director sometime in
12. March of 2017?
13. A. Uh-huh.
14. Q. So I'm talking about in that period
15. of time.
16. A. So upon becoming director, the
17. acting assistant secretary was Amanda Barlow, and
18. I reported to her. She was directing my
19. activity.
20. Q. But, again, I'm talking about
21. before you became director.
22. A. Before --
23. Q. During the time you were the
24. special supervisor and you're doing the political

25. overview --

0084

1. A. Yeah.
2. Q. -- who was directing your work at
3. that time?
4. A. I -- I would say it was probably
5. mostly Maggie Wynne. Tim Clark had a functional
6. component of that.
7. Q. And what was Maggie Wynne's
8. position at that time?
9. A. It was, as it was with all the
10. beachhead team, unclear. Some general name.
11. Policy adviser.
12. Q. All right. Was she a government
13. employee at that time?
14. A. Yes.
15. Q. During the time you were acting as
16. a special adviser, did you receive any particular
17. training orientation about the work of ORR?
18. A. I would use the word "briefing."
19. Q. Okay. All right. So you became
20. the director sometime at the end of March of
21. 2017. Do you recall the particular date you
22. became the director?
23. A. The 24th.

24. Q. 24th, okay. And how'd you get that
25. position?

0085

1. A. Well, I applied for a job on the --
2. on the HHS team, and eventually received a call
3. back, and had a series of interviews, and then
4. came on as part of the transition. Was assigned
5. director of office of refugee resettlement. And
6. then there's a process of that becoming final as
7. a matter of HR and -- and everything else.

8. Q. So are you saying that during the
9. time you were the special adviser that you
10. applied to formally become the director of ORR?

11. A. Yeah, in an informal way.

12. Q. All right. So what's the informal
13. way in which you applied?

14. A. It was first floated to me that I'd
15. be the deputy director, and I made it clear that
16. I'd be interested in the director.

17. Q. And with whom did you have that
18. conversation?

19. A. Maggie Wynne and Tim Clark.

20. Q. All right. And would it be fair to
21. say, then, that in the way that these things
22. happen, you were asked to become the director and

23. you became the director?

24. A. Yes.

25. Q. Okay. In your current position do

0086

1. you have authority to hire and fire staff?

2. A. Yes.

3. Q. Which staff do you hire and fire?

4. A. Any staff that comes on subject to

5. rules and regulations, statutes. Labor

6. agreements that surround that, those actions.

7. Q. All right. During your time as a

8. director, have you hired or dismissed anybody?

9. A. Yes.

10. Q. Who did you either hire or dismiss?

11. A. We've had a number of staff that

12. have come on. I mean, you're asking a very broad

13. question that's kind of nuanced. Some people are

14. reassigned to -- to our office, and it wasn't

15. really a hiring process.

16. Some would have completed the

17. hiring process and finally completed after me

18. coming on. Some are contractors where it's the

19. contracting agency that actually does the hiring

20. and we're bringing on the contract position.

21. So was the question how many or

22. who?

23. Q. It was who, but let's set that

24. aside for a moment.

25. A. Sure.

0087

1. Q. With respect to the deputy

2. directors who report directly to you --

3. A. Yes.

4. Q. -- are those positions that you are

5. free to fill yourself?

6. A. Yes.

7. Q. And did you replace any of the

8. deputy directors when you assumed responsibility

9. in March of 2017?

10. A. No.

11. Q. Other than Mr. White, has any of

12. the other deputy directors changed in your time

13. in the director position?

14. A. No.

15. Q. What responsibility, if -- if any,

16. do you have for reviewing cases of individual

17. children who are in ORR custody? And I am not

18. limiting this to the UC program.

19. A. Could you repeat the question?

20. (Record read.)

21. A. I review substances into the
22. unaccompanied refugee minor program. And also in
23. certain circumstances I review the release or --
24. yeah, the release decisions for the unaccompanied
25. alien children program.

0088

1. (Reporter-initiated discussion off
2. the record.)
3. Q. Any other individual decisions you
4. review or in fact make with respect to children
5. in ORR custody?
6. A. Significant medical procedures.
7. Q. And what --
8. A. This is me personally?
9. Q. You personally.
10. A. Okay.
11. Q. What significant medical procedures
12. do you personally review or make?
13. A. Any of them that require anesthesia
14. or surgery.
15. Q. Any other categories of medical
16. procedures?
17. A. No.
18. Q. Do you make any decisions
19. concerning medications for children in custody?

20. A. No.

21. Q. Other than URM acceptances, some

22. releases in the UC program, and significant

23. medical procedures, are there any other types of

24. individual situations that you personally review

25. and decide with respect to children in UC -- in

0089

1. ORR custody?

2. A. No.

3. Q. With respect to the URM

4. acceptances, during the time --

5. A. If I could, there's one question of

6. medication that I was asked to review, but it was

7. an unsolicited request. And I deferred to the

8. medical -- the medical coordinator of the

9. program. And that was covered in my last

10. deposition.

11. Q. All right. And just so we're clear

12. about this, when you say your last deposition,

13. you're talking about the deposition concerning

14. your role in abortion decision making?

15. A. Yes.

16. Q. That was in December of last year?

17. A. Yes. Or it would have been the

18. same -- same round, but different -- one of those

19. two depositions.
20. Q. Okay. Do you play any personal
21. role in decisions within the UC program to
22. transfer children from one type of placement to
23. another?
24. A. Not on a routine basis.
25. Q. All right. So let's go back to the

0090

1. URM acceptances. Approximately how many times
2. have you personally reviewed those individual
3. acceptances during your tenure?
4. A. It would be hundreds. It would be
5. several a week.
6. Q. And how much time, as a general
7. rule, do you have to spend for each of those
8. cases?
9. A. Five minutes, 10 minutes.
10. Q. With respect to the medical
11. procedures, how many of those cases would you say
12. you've reviewed during your tenure?
13. A. It's similar to the URM program.
14. Q. Okay. And how much time, as a
15. general matter, are you spending on those cases?
16. A. Five to 10 minutes.
17. Q. The issue about medication, you

18. said there was one unsolicited request. I just
19. want to get it correct. So you've gotten it that
20. one time. Not part of a standard practice.
21. Someone sent it to you.
22. And, as I understand your
23. testimony, you essentially deferred to the field
24. staff on that?
25. A. Yes.

0091

1. Q. Okay. And then you said with
2. respect to step-ups or step-downs, to use your
3. vernacular, I said placement changes, you said
4. not on a routine basis?
5. A. Yes.
6. Q. How often have you reviewed
7. specific decisions about placement decisions
8. during your tenure?
9. A. I can't recall a specific instance.
10. However, I'd be surprised if this is the type of
11. thing that hasn't come up to me once or twice
12. because of some exigent circumstance.
13. Q. All right. So I take it, as you
14. sit here today, at least, you don't have any
15. recollection of a particular instance in which
16. you've done this; is that correct?

17. A. Yes.

18. Q. All right. And then with respect
19. to, and we'll talk about this more, of course,
20. but with the release decisions for some children
21. in the UC program, how many times have you done
22. that during your tenure where you've reviewed a
23. case?

24. A. Dozens, I would say.

25. Q. And how much time, as a general

0092

1. matter, are you -- have you been spending on
2. those individual reviews?
3. A. It depends. They're typically more
4. complex than a medical procedure which, with
5. regard to medical procedures, are usually some
6. degree of routine. But the release decisions
7. that come up to me are the ones that are by
8. definition not routine release decisions.
9. So there have been some that are --
10. we've spent more than an hour on, and some that I
11. would say generally about a half an hour to an
12. hour.
13. Q. All right. We'll come back to
14. that.
15. Other than your regular Tuesday

16. meeting, do you have other regularly scheduled
17. meetings during your week?

18. A. Yes.

19. Q. Don't we all. All right.

20. How much -- how many hours do you

21. have of regularly scheduled meetings during a
22. typical week?

23. A. Six to eight.

24. Q. And in a typical week, how many

25. hours end up getting consumed with meetings that

0093

1. are not regularly scheduled but just arise in the
2. normal course of affairs?

3. A. Another 12.

4. Q. Do you ever visit the field?

5. A. Yes.

6. Q. How often do you do that?

7. A. We try to go once a month. That's

8. a rule of thumb.

9. Q. Beyond meetings that are taking
10. place, are there other regular commitments you

11. have during your work week that require

12. substantial time?

13. A. Yeah. Writing, responding to

14. emails. Preparing background memos and things of

15. that sort, yeah.
16. Q. How many hours a week, as a general
17. matter, would you say those sorts of
18. responsibilities are required?
19. A. Another 20 to 30 to 40.
20. Q. You mentioned that at this point
21. you believe there are about 8500 children in your
22. custody?
23. A. Yes.
24. Q. How many children came into ORR
25. custody in 2017, if you know? And I'm asking

0094

1. calendar year, if you know.
2. A. Oh, calendar year? We just had it
3. by fiscal year.
4. (Reporter-initiated discussion off
5. the record.)
6. Q. And what's the number for the most
7. recent fiscal year?
8. A. It was 41,000. In that
9. neighborhood.
10. Q. Okay. So just so I understand,
11. that's October 1 through September 30, 2016, to
12. 2017?
13. A. Yes.

14. Q. Okay. And that's your 2017 fiscal
15. year?

16. A. Yes.

17. Q. All right. Do you know what the
18. comparable number was for 2016?

19. A. 59,000 and change.

20. Q. And do you know about 2015?

21. A. 33,000 and change.

22. Q. Okay. You have on your website an
23. annual report for 2015. At least on the website
24. there are not any more recent annual reports.

25. Are there more recent annual

0095

1. reports that you know of?

2. A. To the -- the annual report to
3. Congress?

4. Q. Yes.

5. A. It's in clearance.

6. Q. It's in clearance. Okay. So
7. there's 20' -- is 2016 coming?

8. A. Yes.

9. Q. You mentioned -- well, let me back
10. up.

11. I understand you were in New York
12. earlier this week?

13. A. Yes.
14. Q. You spoke at the U.N.?
15. A. Yes.
16. Q. All right. You said at that event
17. that in December 2016, as I recall, that the
18. agency had 12,000 children in custody?
19. A. Yes.
20. Q. Do you recall that?
21. A. Yes.
22. Q. All right. Is that an accurate
23. number?
24. A. Yes.
25. Q. All right. And we have seen a

0096

1. document that indicates that in June of 2017 the
2. total number of children in ORR UC program was
3. 2400. Are you familiar with that number?
4. A. That sounds right. Sounds a little
5. low, but . . .
6. Q. And just to be clear, the 12,000
7. number that you mentioned at the U.N. panel, that
8. was children in the UC program; correct?
9. A. Yes.
10. Q. All right. So do you have a sense
11. as to how we went from or you went from 12,000 in

12. December 2016 to somewhere around 2400 in June of
13. 2017 to 8500 now?

14. A. Yes.

15. Q. What's your understanding of that?

16. A. There is an -- it was a historic
17. drop in referrals that lasted, if memory serves,
18. probably until about June. It was accompanied by
19. a historic high rate of discharges for an
20. extended period, and I don't remember how long
21. that occurred. But the main driver was the
22. different referrals compared to a relatively
23. steady or high rate of discharge.

24. Q. All right. And that is during the,
25. if you will, December of 2016 to approximately

0097

1. June 2017 period you're talking about?

2. A. Yes.

3. Q. All right. And did those trends

4. then reverse afterwards?

5. A. Yes. The referrals started to pick

6. up. And the discharges, going to various

7. variables, that -- that fluctuates somewhere

8. between 1.2, 1.7 per 100 kids per day.

9. Q. All right. Do you know how many

10. children are in ORR custody in New York as of

11. now?

12. A. I don't have that committed to

13. memory.

14. Q. Do you get state-specific reports

15. from time to time about the number of kids in

16. custody?

17. A. We get reports of beds, and that --

18. that would be at hand, if -- if needed.

19. Q. Since the filing of this lawsuit,

20. which was February 16th of this year, do you know

21. of any changes in the number of children who have

22. been moved to New York to be placed in ORR

23. facilities there?

24. A. No.

25. Q. Do you know of any directives,

0098

1. written or otherwise, concerning the movement of

2. children into New York since the filing of this

3. lawsuit?

4. A. No.

5. Q. If there were such a directive, do

6. you think you would know about it?

7. A. Yes.

8. Q. In terms of children coming into

9. ORR custody, you mentioned that they typically

10. come from other agencies. And I think you
11. mentioned particularly DHS and perhaps sometimes
12. the Coast Guard?
13. A. Yeah.
14. Q. Do the other ones come in from
15. other agencies?
16. A. Not typically.
17. Q. And at least in terms of -- in
18. terms of releases, as I understand it, these
19. children can be released and reunified with a
20. sponsor or placed with a sponsor. Some children
21. will age out. Some children will take voluntary
22. departure?
23. A. Yes.
24. Q. Are there other ways in which
25. children leave ORR custody?

0099

1. A. Well, sometimes the sponsor is a
2. long time -- long-term foster care.
3. Q. Okay. So would you consider that
4. to be, at least the way I'm talking about,
5. continuing in ORR custody?
6. A. No. That would -- that would be a
7. release.
8. Q. That would be a release?

9. A. Yeah. And those tend to be our
10. category four kids.
11. Q. Uh-huh. Okay. So other than
12. release, age out, voluntary departure, are there
13. any other ways that children leave ORR custody?
14. A. No.
15. Q. Do you have a sense, of the time
16. that you have been the director of the
17. distribution of children leaving ORR custody
18. between those various categories, mainly
19. reunification, age outs, or voluntary departure?
20. A. Oh. It's the -- mostly your
21. reunification, by -- by a wide margin. But more
22. specific than that, I would say at least
23. 60 percent. But what are expected to be higher.
24. That's a conservative estimate.
25. Q. And do you have any sense of the

0100

1. percentages of age outs or voluntary departures?
2. A. That would be small. That would --
3. I would expect that to be less than 10 per --
4. 10 percent.
5. Q. And have those small percentages
6. changed in any meaningful way over the course of
7. your tenure?

8. A. I don't know.
9. Q. Is that something you get reporting
10. about, in terms of the way people -- children are
11. leaving your custody?
12. A. Not regularly.
13. Q. You get it from time to time?
14. A. Yes.
15. Q. All right. In terms of the most
16. recent report that you got, setting aside when
17. you got it, what's your recollection about the
18. distribution of children leaving custody in these
19. different categories?
20. A. That's my best recollection of
21. that.
22. Q. At least 60 percent, less than
23. 10 percent, less than 10 percent?
24. A. Yeah. The age outs would be a -- a
25. larger category than voluntary departure.

0101

1. Q. And the age outs are then -- in
2. that situation, they're transferred to ICE; is
3. that correct?
4. A. Yes.
5. Q. All right. With respect to your
6. placement types, is it fair to say that you have

7. as placement types secure, staff secure, shelter,
8. foster care, and therapeutic?
9. A. Yes.
10. Q. All right. So that's -- those five
11. categories. Can you just give me a thumbnail
12. sketch of what you consider to be the essential
13. characteristics of each of those five categories?
14. A. Well, therapeutic would be an
15. instance where there's a physical or mental
16. condition that requires special care.
17. Long-term foster is -- is where,
18. you know, you have sponsorship prospects from one
19. of the family.
20. Secure is where there's been --
21. where there's a danger to one's self or to
22. others.
23. Staff secure is where there's some
24. sort of misbehavior. It could be along the lines
25. of danger to self or others, but tends to be more

0102

1. flight risk.
2. And shelter would be the vast
3. majority of our population where there's not a --
4. a concern over safety to one's self or to others,
5. or a flight risk.

6. Q. For the 8500 children who are
7. currently in custody, what's your best estimate
8. of either the numbers or percentages of your
9. population are each -- in each of these five
10. placement types?

11. A. Long-term foster, I'd have to ask
12. somebody. And the same with therapeutic.
13. In secure, I believe the last time
14. I checked there is a -- it was in the high 60s.
15. And staff secure that -- that would
16. be between one and 200, and then the rest would
17. be shelter.

18. Q. And when you say "one to 200," is
19. that a figure -- that's your best recollection of
20. what the figure is, or is that a capacity figure?

21. A. It's -- it's one or the other.
22. It's one or the other, yeah.

23. Q. Okay. What's your understanding of
24. what your shelter capacity is -- excuse me, your
25. secured capacity?

0103

1. A. 8 -- 89, I believe.
2. Q. And your staff secure?
3. A. My guess would be like 190, but I
4. would have to check.

5. Q. Okay. What are the various ways in
6. which a child in ORR custody would end up in a
7. secure placement?

8. A. Assaulting another UAC or a staff
9. member. Establishing a pattern of violent
10. behavior. Gang affiliation.

11. Q. Anything else?

12. A. I think in most instances where
13. there's an attempt at an escape they would be in
14. staff secure, rather than secure. If there was
15. attempts at escape accompanied by violent or
16. disruptive behavior, it could be in -- in secure.

17. Q. Of the current high 60s number of
18. kids who are in secure placement as of now,
19. what's your best sense of the extent to which
20. they are in for any of the four different reasons
21. that you mentioned?

22. A. I think they're all in for those
23. reasons.

24. Q. Sorry. I meant the distribution.

25. A. Oh. I see. The distribution?

0104

1. Q. Uh-huh.
2. A. Most -- most all of them would
3. be -- so -- so we have violent and disruptive

4. behavior. There -- that's -- that's the story of
5. secure.

6. Q. That's most of them?

7. A. Yeah.

8. Q. Okay. And I understand what you're
9. saying about attempt to escape, if paired with
10. perhaps violent and disruptive behavior, would
11. also get you in secure?

12. A. Yeah. I'm not -- I'm not aware of
13. a situation where an escape attempt alone would
14. wind somebody up in secure, unless it was --
15. somebody had tried every day to escape, for
16. example. But that is speculative.

17. Q. And then -- so then what that
18. leaves us is gang affiliation. How many of the
19. people are we talking of the 60 might be in that
20. category?

21. A. Probably five to 10, number-wise.

22. Q. And --

23. A. If that.

24. Q. If that, okay. And in terms of
25. this distribution, is this typical of the

0105

1. distribution of kids in secured during your
2. tenure?

3. A. Yes.
4. Q. Is this something you get a regular
5. report about, in terms of the characteristics of
6. kids in secure?
7. A. No.
8. Q. What sort of reporting do you get,
9. if any, about the number of kids who are in
10. secure or staff secure placements?
11. A. It's just as needed, and as it
12. comes up in various conversations.
13. Q. Is that information, though, the
14. agency regularly has available to it?
15. A. Yeah. It would be available
16. roughly whenever we needed it.
17. Q. Since the time you have been the
18. director, can you estimate how many children in
19. ORR custody have been in secure placement?
20. A. If I were to venture a guess, and I
21. think it would be a bad guess.
22. Q. All right. We don't want you to
23. make a bad guess, but I would like you to make an
24. estimate as best you can, to the extent that you
25. can.

0106

1. A. I would say 300.

2. Q. And then in terms of staff secure
3. what would be your best estimate?
4. A. 600.
5. Q. And do you happen to know when you
6. became the director how many kids at that time
7. were in either staff secure or secure?
8. A. It -- the numbers have held steady
9. since me coming on, according to my recollection.
10. Q. Okay. So, for instance, to the
11. extent that your estimate today is high 60s for
12. secure, and 100 to 200 for staff secure, your
13. sense is it would have been about the same
14. numbers in March of 2017?
15. A. Can you repeat the numbers?
16. Q. I think you had said that as of now
17. you estimated that the number of kids in secure
18. was the high 60s, and the number of kids in staff
19. secure was 100 to 200.
20. A. Okay.
21. Q. So assuming I have that right, and
22. assuming that you're saying you think the numbers
23. have held over time --
24. A. Sure.
25. Q. -- would it be fair to say it's

0107

1. your sense, as you sit here today, that when you
 2. became the director that those were the types of
 3. numbers of kids who were in either secure or
 4. staff secure at that time?
5. MR. BYARS: Object to the form.
6. You may answer.
7. A. That's specul -- specul -- okay. I
8. think that's -- that's roughly right. However,
 9. you know, there -- there was the change that
 10. we're aware of that gang affiliation would result
 11. in initial secure placement, which may have
 12. increased the number of -- of people in our
 13. secure placement slightly, but more than
 14. 20 percent I'd be surprised.
15. Q. Okay. With respect to moving kids
16. from facility to facility, is that something that
 17. ORR does on a regular basis?
18. A. Yes.
19. Q. All right. And does ORR also, as a
20. regular basis, move children around to different
 21. parts of the country?
22. A. Yes.
23. Q. Is that something you have pretty
24. much complete control over?
25. A. Yeah. Yes.

0108

1. Q. What regular interactions does ORR
 2. have with law enforcement personnel, either
 3. federal or local?
4. A. We -- well, at initial referral
 5. it's usually from a law enforcement from CDP or
 6. ICE. And at the -- at release ORR reports the
 7. details of the release, to UAC and the sponsor,
 8. to the local ICE field staff, FOJC, field office
 9. juvenile coordinator.
10. THE WITNESS: Field office juvenile
 11. coordinator.
12. THE COURT REPORTER: Coordinator.
13. Q. All right. So you're having at
 14. least contact with them when the child comes into
 15. your custody. You're saying you provide them
 16. notification upon release. Beyond that, what
 17. sort of interactions does the agency have with
 18. law enforcement?
19. A. Well, that's on a case-by-case
 20. basis. So if a kid commits a crime while in --
 21. in our care, then we would have interaction with
 22. law enforcement at that point. If there's been
 23. an escape attempt -- attempt or leave or
 24. information, or if law enforcement learns
 25. information about gang affiliation or crimes

1. committed, then there would be interaction at
2. that point.
3. And we've also, as part of
4. community safety engagement, we've -- we're
5. beginning the process of bringing law enforcement
6. into -- into our shelters and -- and -- well,
7. into our shelters in order to give gang -- gang
8. resistance training, which is -- which is
9. administered by a law enforcement officer.
10. (Reporter-initiated discussion off
11. the record.)
12. A. It's called the GREAT program,
13. which is similar to the DARE program, but if you
14. ask me what GREAT stands for, I draw a blank.
15. Q. Okay. I'm sorry --
16. (Reporter-initiated discussion off
17. the record.)
18. A. G-R-E-A-T. Gang resistance. I
19. don't know.
20. Q. Do you yourself have any ongoing
21. interactions with any law enforcement agencies in
22. New York?
23. A. In New York. I wouldn't describe
24. them as ongoing. I've had discussions with law
25. enforcement entities in New York.

1. Q. What are the entities?
2. A. Personnel.
3. Q. So what are the entities or
4. personnel you've had discussions with?
5. A. I've had discussions with Suffolk
6. County Commissioner's office.
7. Q. And what is --
8. A. The police commissioner's office.
9. Q. The police commissioner's office.
10. And what were those discussions?
11. A. To discuss the nexus or -- yeah, I
12. guess you could say nexus, between gang suspects
13. that they had in custody and the UAC program.
14. Q. Did those discussions include any
15. discussions about release of children in ORR
16. custody?
17. A. More -- more along the -- well,
18. yeah. I think so.
19. Q. And what were the particulars of
20. that discussion?
21. A. It would be providing -- it would
22. be general background about what -- what they see
23. regarding release of unaccompanied alien children
24. into their community, and then us providing

25. background about our release processes and

0111

1. sponsorship processes.

2. MR. BYARS: Would now be a good

3. time for another break, Mr. Dunn?

4. MR. DUNN: I'm happy to take

5. another break, if this is the time you would

6. break. How are we doing on time? What time is

7. it?

8. MR. BYARS: It's about 10 of 12.

9. Why don't we just take a couple of minutes.

10. MR. DUNN: Sure.

11. THE VIDEOGRAPHER: Going off the

12. record at 11:49.

13. (Recess taken.)

14. (Luncheon recess: 11:48 a.m.)

15

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17

18

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25

0112

1. A F T E R N O O N S E S S I O N
2. (1:04 p.m.)
3. EDWARD SCOTT LLOYD,
4. having been previously sworn, resumed the
5. stand and testified further as follows:
6. THE VIDEOGRAPHER: We are going
7. back on record at 1:05. This begins disk No. 3.
8. EXAMINATION (Cont'd.) BY
9. COUNSEL FOR PLAINTIFFS/PETITIONERS
10. BY MR. DUNN:
 11. Q. Mr. Lloyd, I want to go back and
 12. ask you a couple of quick things.
 13. A. Uh-huh.
 14. Q. You said that you might, in a
 15. couple instances, have been involved with a
 16. individual case involving a placement decision?
 17. A. Yes.
 18. Q. Let me ask you this: Are any of
 19. those decisions being elevated to headquarters
 20. and being reviewed by somebody else?
 21. A. So there's a couple of questions
 22. there. Can I start with the first part?

23. Q. Sure.

24. A. Is it being -- I wouldn't use the

25. term "elevated." Much or most of what we do in

0113

1. the agency we copy, if it's an email, for
2. visibility purposes, personnel at the department,
3. and usually -- usually that's Maggie Wynne
4. because she has jurisdiction over our issues.
5. And then so do we elevate and
6. review, I think if we could -- I'd like to answer
7. the question yes.

8. Q. Okay. So what I'm trying to get at
9. is, I understood from your testimony, but correct
10. me if I'm wrong, that you do not personally,
11. except for perhaps one or two instances you don't
12. remember, review and make decisions about
13. displacement movements of children in the UC
14. program; is that correct?

15. A. Typically, I am not involved in
16. that.

17. Q. Okay.

18. A. It's only in the rare instance
19. where I'm involved in placement and movement,
20. transfer.

21. Q. Is anybody else in the headquarters

22. staff involved with the review and decision
23. making about step-ups or step-downs?
24. A. Not in a typical matter. Unless
25. there's some complication in a case, this is the

0114

1. federal field staff that makes the decision.
2. Q. And during your tenure as
3. director -- and how many instances as a general
4. matter are you aware of in those unusual
5. circumstances headquarters staff being involved
6. in deciding about placement decisions?
7. A. In those rare instances?
8. Q. Yes.
9. A. A handful.
10. Q. Okay.
11. A. Less than five.
12. Q. Okay. With respect to the
13. distribution of outcomes of people leaving ORR
14. custody, you said that at least 60 percent were
15. being released?
16. A. Yes.
17. Q. Were you including in that movement
18. of children to long-term foster care?
19. A. No.
20. Q. All right. So is that what I would

21. describe as reunification with a sponsor?
22. A. Long-term foster care, is that --
23. Q. No, the 60 percent?
24. A. Oh. Yes, yes.
25. Q. All right. And when you estimated

0115

1. 8500 children are currently in ORR custody, that
2. includes or excludes long-term foster care?
3. A. That includes. That includes all
4. levels.
5. Q. And what would be your estimate, if
6. you have one, of how many children are in
7. long-term foster care?
8. A. 40.
9. Q. 40 total?
10. A. Yes.
11. Q. Long-term foster care?
12. A. Yes.
13. Q. You talked about tracking on, I
14. think you said, a daily basis their release rate.
15. And you mentioned ranges from .7 percent to
16. 1.4 percent.
17. What was the release rate at the
18. time you became the director in March of 2017?
19. A. I don't remember.

20. Q. Do you have any recollection of
21. release rates at any point in time during the
22. spring of 2017?
23. A. No. I -- I -- just that it was
24. generally slightly higher.
25. Q. And slightly higher than what is a

0116

1. typical rate? Is that what you mean by that?
2. A. Yeah. We started out the year
3. with -- with a -- yeah, somewhat higher than the
4. typical rate. I think our typical rate is, at
5. least since I've been looking at it, 1.4 to 1.5.
6. We started out with maybe some -- somewhere more
7. like 1.6.
8. Q. And you're talking about the
9. beginning of 2017?
10. A. Yes.
11. Q. Okay. Within the agency, within
12. ORR, how many political appointees are there who
13. had responsibility for the UC program?
14. A. Three.
15. Q. And who are those three?
16. A. It's myself, Pedro Moreno, and Kim,
17. Kimberley Womack.
18. Q. And who are the second two?

19. A. Pedro Moreno is the principal
20. deputy director, and Kimberley Womack is a policy
21. adviser.
22. Q. Is she a policy adviser to you?
23. A. Yes. They both report directly to
24. me.
25. Q. You mentioned, as I understood it,

0117

1. that there were five supervisory FFSs in the
2. agency?
3. A. Yes.
4. Q. Have any of the five of them -- are
5. any of the five current supervisors new to that
6. position since you became the director?
7. A. No.
8. Q. Okay. So, to be clear, when you
9. came in in March of 2017, the five incumbent
10. supervisory FFSs were in those positions?
11. A. Yes.
12. Q. Does the agency have any reports
13. that you know of that report on the duration of
14. children in ORR custody who are or have been in
15. secure or staff secure?
16. A. There are no regular reports. If
17. somebody asks for that information, we could get

18. it.

19. Q. All right. So I take it by that,
20. you mean, but just confirm it, you have data from
21. which those reports could be compiled, but those
22. reports are not compiled as of now?

23. A. Correct.

24. Q. Okay. And who's got -- is that
25. data that's in the possession of ORR?

0118

1. A. Yes.

2. Q. Okay. And you have staff here in
3. headquarters who use that data from time to time
4. to produce reports?

5. A. Yes.

6. Q. All right. If you were going to
7. ask somebody to compile that information, who
8. would be the person you would ask?

9. A. I would ask Jallyn Sualog, who
10. would ask Olympia Belay.

11. (Reporter-initiated discussion off
12. the record.)

13. Q. Does the agency produce reports of
14. kids who are in ORR custody who are or have been
15. in secure or staff secure and that have been in
16. custody for more than a particular point in time,

17. for instance, like more than six months?

18. A. I don't know.

19. Q. Okay. Have you ever seen a report

20. that's a list of kids who have been in custody

21. and who either are or were in staff secure for

22. any specified period of time?

23. A. No.

24. Q. Is that the sort of information

25. that could be pulled from the data set that you

0119

1. have?

2. A. Yes.

3. Q. Independent of any reports, do you,

4. as you sit here today, know anything about the

5. length of custody of children who are currently

6. in your custody and who are or have been in

7. secure or staff secure places?

8. A. Yes.

9. Q. Okay. What's the information you

10. have about that length of custody?

11. A. Just generally, that it tends to be

12. longer than our shelter placements.

13. Q. Okay. You, I think mentioned

14. before, that length of custody generally have

15. been relatively stable around 45 days over your

16. tenure.

17. Do you recall that?

18. A. Yes.

19. Q. All right. Was that for all

20. children in the UC program?

21. A. Yes.

22. Q. Okay. What's your understanding,

23. if you have one, about a comparable number of

24. days that children have remained in custody

25. during your tenure who are or have been in other

0120

1. secure or staff secure?

2. THE WITNESS: Could you repeat the

3. question?

4. (Record read.)

5. A. It would be a guess.

6. Q. I don't want you to guess. Do you

7. have any estimate of that?

8. A. Yeah. It would be an estimate, and

9. I think it would be about 60 days.

10. Q. To your knowledge, has that figure

11. changed in any significant way during the course

12. of your tenure?

13. A. No.

14. Q. Does the agency make an effort to

15. determine whether or not a child in its custody
16. in the UC program has any connection to gang
17. activity?
18. A. Yes.
19. Q. And what specifically does the
20. agency do to determine that or to ascertain that?
21. A. They -- it examines the
22. documentation that accompanies the placement at
23. custody. And it -- because of its ability to
24. observe the clinical process, because the
25. clinical process is part of the program that we

0121

1. oversee, if that -- if indications of gang
2. activity arise, then we receive that information
3. and act upon it.
4. Q. All right. And when you're saying
5. "clinical activity," you're talking about social
6. work provided by provider agencies, for instance?
7. A. Yes.
8. Q. All right. And you're saying that,
9. if during the course of that work, they learn of
10. something they consider to be gang related,
11. that's information that would be conveyed to ORR?
12. A. Yes.
13. Q. All right. Why does the agency

14. have an interest in whether or not there is
15. possible gang affiliation, for lack of a more
16. precise term at the moment, for a child in its
17. custody?
18. A. It could be an indication of
19. dangerousness.
20. Q. Does the agency have itself a
21. protocol for determining whether or not there is
22. in fact possible gang involvement by a child in
23. its custody?
24. A. That's a case-by-case
25. determination.

0122

1. Q. But in making that case-by-case
2. determination, does the agency have a specific
3. protocol or tool that it uses case by case to
4. determine whether or not a child may have gang
5. involvement?
6. A. No.
7. Q. Does it have any written policies
8. for directives that are provided to its staff or
9. providers that specifies what the standards are
10. for determining if a child is somehow gang
11. connected?
12. A. There is -- there is a distinction

13. made in our policy between current gang
 14. affiliation and past gang affiliation. That's
 15. one of the things that we look at in making that
 16. determination.
17. Q. Okay. What I'm trying to you
18. understand is, setting aside whether it's current
 19. or past, what standards or criteria the agency
 20. uses to conclude that a child is or was gang
 21. affiliated?
22. A. It's a case-by-case determination
23. made by the program in concert with the federal
 24. field staff.
25. Q. And do you know of any written

0123

1. standards that govern that case-by-case
 2. determination?
3. A. No.
4. Q. And if there were such standards
 5. would you know of them?
6. A. Yes.
7. Q. Do you know if there are any
 8. particular staff in ORR who have been specially
 9. trained to identify characteristics of someone
10. who may be involved with a gang?
11. A. Yes.

12. Q. Who are the staff?
13. A. The -- there are some that I know
14. have had the training, and there are some who've
15. had the training, and I don't know who was at the
16. training.
17. Q. Okay. Is there an understood
18. single form of training that's available to
19. staff?
20. A. We've had a number of engagements
21. with law enforcement and Department of Justice
22. to-- to give federal staff the opportunity to
23. learn more about gangs and be trained in -- in
24. gang awareness. What are the indicators of gang
25. affiliation.

0124

1. Q. Do you have any idea how many of
2. your 150 employees involved with the UC program
3. have been to that training?
4. A. No, I don't know how many.
5. Q. Do you have particular categories
6. or labels that you use, in terms of thinking
7. about someone who may be gang involved? For
8. instance, you say who is currently a gang member?
9. I mean, is "gang member" a term that the agency
10. defines and uses for certain purposes?

11. A. No. The -- no.
12. Q. Okay. Is there any other -- you
13. mentioned gang affiliated. Is "gang affiliation"
14. or "gang affiliated" a term the agency uses?
15. A. It's term the agency uses.
16. Q. All right. And what does -- what
17. is the definition of that term in the way the
18. agency uses it?
19. A. It's a term that the agency uses
20. and is not defined in any -- anything written.
21. (Reporter-initiated discussion off
22. the record.)
23. Q. What's your understanding of the
24. substance of the term "gang affiliated," as the
25. agency uses it?

0125

1. A. The people who have received
2. training in gang affiliation explained it to me
3. as it being a spectrum where at one end of the
4. spectrum there would be impressed low-level
5. service, and at the other end of the spectrum
6. would be willful, highly violent gang-affiliated
7. behavior.
8. Q. Other than "gang affiliated," is
9. there a term the agency uses to describe a

10. child's gang involvement?
11. A. "Member of a gang."
12. Q. "Member of a gang," okay. So how
13. is "member of a gang" different than being gang
14. affiliated, for purposes of the agency's work?
15. A. I don't think there is any
16. functional difference.
17. Q. All right. So it would be fair to
18. say that "member of a gang" is at the far end of
19. the spectrum, if you will, of "gang affiliated"?
20. A. Yes.
21. Q. Okay. So other than "gang
22. affiliated," are there any other terms the agency
23. uses to describe or characterize gang involvement
24. by a child in its custody?
25. A. No.

0126

1. Q. If the agency identifies a child
2. who's being gang affiliated, what effect, if any,
3. does that have on release decisions by the
4. agency?
5. A. That would be -- if they have been
6. identified as affiliated with a gang, then that
7. becomes a release decision that has to be
8. reviewed by me.

9. Q. Okay. Is there a written policy
10. that states that?

11. A. Yes.

12. Q. And where is that policy, if you
13. know?

14. A. In our policy guide.

15. Q. In the policy guide.

16. Do you know what section of the
17. policy guide?

18. A. 12.7, I believe. But I could be
19. wrong.

20. Q. I'm not going to hold you to that.

21. We'll come back to it.

22. Does being gang affiliated, in the
23. eyes of the agency, have any effect on placement
24. decisions of children in ORR custody?

25. MR. BYARS: Object. Are you asking

0127

1. as a 30(b) (6) witness or are you asking for his
2. understanding?

3. MR. DUNN: His understanding.

4. A. Okay. Could you repeat the
5. question?

6. MR. DUNN: Can you read it back,
7. please.

8. (Record read.)

9. A. Yes.

10. Q. And what's the effect?

11. A. Gang affiliation will result in a
12. secure placement. Review of the placement
13. decision in a secure setting is a more accurate
14. way of putting it.

15. Q. Review of a placement decision in a
16. secure setting. Could you explain what you mean
17. by that?

18. A. There's an initial placement in
19. secure while a review occurs of the allegation of
20. gang affiliation.

21. Q. Okay. And does that placement in
22. secure facility follow, if the child is anywhere
23. on what you described as the spectrum of gang
24. affiliation?

25. A. Yes.

0128

1. Q. All right. And would this result
2. of placement in a secure placement apply both if
3. there's information the agency gets when the
4. child originally comes into ORR custody, and if
5. there is a child already in ORR custody and
6. information surfaces about the child?

7. A. Yes.
8. Q. Do you know, in the time that
9. you've been the director, how many children
10. have -- excuse me -- been identified as gang
11. affiliated such that they have been subject to
12. this placement practice?
13. A. No.
14. Q. Do you know how many children,
15. since you have been ORR director, have been
16. elevated to you for review on their release by
17. virtue of a finding of gang affiliation?
18. A. No.
19. Q. With respect to the release
20. decisions, do you have any estimate of how many
21. have come to you?
22. A. Yes.
23. Q. What's your estimate?
24. A. Dozens.
25. Q. Okay. When I asked you earlier

0129

1. about the number of release decisions that had
2. come to you during your tenure, you said dozens.
3. And in terms of this particular
4. issue about release decisions being elevated to
5. you for gang affiliation specifically, you're

6. saying dozens?
7. A. Uh-huh.
8. Q. Are there cases that you're getting
9. to review that -- for purposes of release that
10. are not gang-affiliated cases?
11. A. Yes.
12. Q. Okay. How many nongang-affiliated
13. cases are coming to you for release review?
14. A. At least half.
15. Q. At least half of the cases that you
16. get?
17. A. Yes.
18. Q. Okay. So you've got dozens of gang
19. ones. You've got dozens of total cases. Let's
20. try to be a little more specific.
21. Your best estimate, in the year
22. that you've been the ORR director, how many cases
23. have come to you either for -- for release
24. review, regardless of whether they are gang
25. affiliated or not?

0130

1. A. I'd say between 100 and 120, doing
2. the math.
3. Q. Okay. Did something happen during
4. the lunch break that gave you a little clearer

5. recollection of how many cases you might have
6. reviewed?

7. A. No. I just did the math right now
8. in my head.

9. Q. Okay. Fair enough.

10. A. Two a week and multiplied by 52.

11. Q. Okay. We'll come back to that.

12. And based upon what you know about

13. children in custody in the review process in the

14. agency, do you have any sense of how often a

15. child who is originally identified as being gang

16. affiliated turns out not to be gang affiliated

17. once the agency reviews it?

18. A. I would say that's rare.

19. Q. All right. Starting with -- with

20. cases where there's information about gang

21. affiliation when you assume custody of a child,

22. what is the agency doing to ascertain the

23. validity of information that's coming from

24. another agency?

25. A. Speaking with the agency that made

0131

1. the referral or provided the information is a
2. better way to say it, and then speaking with the
3. child in a clinical setting.

4. Q. And, as I understand it, there's no
5. instrument or protocol that's being used to -- in
6. part -- as part of this review process; is that
7. correct?

8. A. That's correct. There are
9. recidivism tools that we use in some cases but
10. that doesn't speak directly to gang affiliation.
11. I should also mention that we contact family
12. members.

13. Q. And setting aside the protocol, is
14. there a particular document that agency staff are
15. using to investigate whether or not information
16. that is received upon initial placement with the
17. agency concerning gang affiliation is accurate or
18. valid?

19. A. There is not a written protocol.
20. There's a -- there's a -- a program-wide
21. understanding.

22. Q. What I'm asking is, even beyond the
23. protocol. Is there a form? Is there a piece of
24. paper that's uniformly used to --

25. A. No.

0132

1. Q. -- record information about your
2. assessment of alleged gang affiliation?

3. A. No. Not for gang affiliation.
4. Q. With respect to suspected gang
5. affiliation that surfaces after the child is in
6. your custody, what is the process for
7. investigating whether or not that is accurate and
8. valid?
9. A. Check with the relevant law
10. enforcement entity that's back in country through
11. Interpol, or if it's in this country. And then
12. follow up with others who may have information,
13. but usually that's -- that's family. I don't
14. think we extend beyond family.
15. Q. And with respect to that process,
16. namely, reviewing gang allegations that surface
17. for a child who's in your custody, is it correct
18. there's no agency protocol for doing that?
19. A. There's no written agency protocol.
20. There's a program-wide understanding.
21. Q. Is it also correct there's no
22. specific form that the kids use for purposes of
23. that review process?
24. A. In the gang review process, yes,
25. there is no specific form.

0133

1. Q. As we sit here today, do you have a

2. sense of the percentage of children, or the
 3. number, who are in your custody now through the
 4. UC program who the agency believes are gang
 5. affiliated?
6. A. The best estimate we have at any
7. one time is between one and one and a half
 8. percent of the kids who go through our program.
9. Q. Okay. Has that been a pretty
10. stable number during your tenure?
11. A. That is the best informed
12. hypotheses of -- of the various people working
 13. with kids in the program.
14. Q. Do you get any reports from time to
15. time that lists or enumerates the number of
 16. children the agency believes are gang affiliated?
17. A. No.
18. Q. Are you aware of a survey that took
19. place in June of last year that attempted to
 20. identify the number of kids who are gang
 21. affiliated?
22. A. That rings a bell.
23. Q. Okay. What do you remember about
24. that survey?
25. A. In the context of either our

0134

1. discussions with Commissioner Sini or -- Sini,
 2. S-I-N-I -- or preparation for a hearing, we
 3. made -- I believe we made a request to find out
 4. how many are suspected of gang affiliation.
5. Q. And you made a request of whom?
6. A. Our -- I would have asked Jonathan
7. White, who would have tracked it down.
8. Q. Okay.
9. (Lloyd Exhibit Number 2, 8/16/17
10. AC&F information memo regarding community
 11. safety initiative for the UAC program,
 12. four pages, marked for identification as
 13. of this date.)
14. Q. Mr. Lloyd, I'm showing you what's
15. been marked as Lloyd Exhibit No. 2. This is a
16. ACF memo dated August 16, 2017.
17. Is this a document you have seen
18. before?
19. A. Yes.
20. Q. All right. Let me direct your
21. attention to the second page of it. And in the
22. "Discussion" section on that page, could you take
23. a moment and just look at that paragraph.
24. A. Okay.
25. Q. Is this the survey that you recall

0135

1. having happened?
2. A. Yes.
3. Q. Okay. As far as you know, are the
4. results of the survey as reported on this
5. document accurate?
6. A. Yes. It's an accurate reflection
7. of the survey we did.
8. Q. And what were these survey results
9. used for?
10. A. Per our understanding and per the
11. understanding of others.
12. Q. Who were the others you're
13. referring to?
14. A. Interagency partners and the public
15. necessary. Or where appropriate, I guess I would
16. say better.
17. Q. There's been mention before about
18. the TVPRA?
19. A. Yes.
20. Q. Are you familiar with that statute?
21. A. Yes.
22. Q. All right. Are you familiar with
23. the provision in the statue that requires the
24. prompt placement of children in the least
25. restrictive placement, consistent with their best

1. interests?
2. A. Yes. Very familiar.
3. Q. Do you understand that obligation
4. to apply to the agency?
5. A. Yes.
6. Q. All right. Do you understand that
7. obligation to apply to the placement of children
8. with sponsors?
9. A. Yes.
10. Q. And you also understand that
11. obligation to apply when it comes to placing
12. children in different types of settings inside of
13. ORR, namely, secure versus staff secure, for
14. instance?
15. A. Yes.
16. Q. Does the agency have any particular
17. system for tracking its compliance with that
18. obligation?
19. A. The system of tracking our
20. compliance is everything that we do. That's the
21. entire framework of the program.
22. Q. I understand that or I accept that.
23. But what I'm asking you is, is
24. there a particular system designed for the
25. express purpose of monitoring compliance with

1. this provision of the TVPRA?
2. A. Could you define "system"?
3. Q. Anything that you have.
4. A. The program has visibility into
5. every release decision that we make. And all
6. those decisions are made on the basis of our
7. obligations under TVPRA, Homeland Security Act,
8. and the Flores settlement.
9. Q. Well, I understand that. What I'm
10. asking you, though, is, does the agency have any
11. system that is specifically designed for the
12. purpose of assessing compliance with the mandate
13. of the TVPRA of prompt placements in the
14. least-restrictive setting in the best interest of
15. the child?
16. A. And my answer to that question is
17. that the program complies with those statutory
18. obligations. The program itself is the system
19. for complying with those obligations.
20. Q. All right. When you say the
21. program complies with it, on what basis do you
22. draw that conclusion?
23. A. My interaction with the staff. My
24. review of releases. And my understanding of the

25. interaction of the policy staff with -- with the

0138

1. program.

2. Q. All right. Anything more specific

3. than that?

4. A. I think that covers everything.

5. Q. Do you get any reports at any time

6. that expressly attempt to measure compliance with

7. this particular mandate of the TVPRA?

8. A. Report, no. Apart from an

9. individual who makes a decision, because it's an

10. individualized determination.

11. MR. DUNN: Can you mark that as 3.

12. (Lloyd Exhibit Number 3, 2/15/18

13. USDHS publication entitled:

14. Unaccompanied Alien Children and Family

15. Units Are Flooding the Border Because of

16. Catch and Release Loopholes, four pages,

17. marked for identification as of this

18. date.)

19. Q. Mr. Lloyd, I'm showing you an

20. exhibit that's been marked as Lloyd Exhibit 3,

21. which is a release from the Department of

22. Homeland Security dated February 15, 2018,

23. concerning, amongst other things, a TVPRA.

24. Is this a document you've seen

25. before?

0139

1. A. No.

2. Q. All right. Are you aware that DHS

3. issued release in February 2018 concerning,

4. amongst other things, the TVPRA?

5. A. I'm generally aware.

6. Q. Okay. Before this was released,

7. were you aware that it was going to be released?

8. A. No.

9. Q. Did you have any input into this
10. release?

11. A. No.

12. Q. How did you learn of it?

13. A. I didn't. I never learned of this
14. particular release. I've learned of statements
15. in the media by different people in, I'll call
16. them other agen -- interagency partners that have
17. similar information.

18. Q. Do you, as the head of ORR, have
19. concerns that children who are in the UC program
20. have too many legal protections?

21. A. I don't approach the question that
22. way.

23. Q. Well, let me ask the question
24. again, though.
25. Do you, as the head of ORR, have

0140

1. concerns that children in the UC program have too
2. many legal protections?
3. A. As the director of ORR, I just
4. implement the legal protections.
5. Q. You, at your U.N. presentation
6. earlier this week, talked about the agency
7. considering the legal framework involving
8. children in its custody. What were you referring
9. to when you said that?
10. A. The procedural -- the procedures by
11. which UAC weaves through the iteration process.
12. Q. Could you be more specific?
13. A. No. Not at this time. It's
14. deliberative.
15. Q. Well, does any part of the
16. statement you made at the U.N. pertain to the
17. particular obligation at TVP -- at TVPRA that
18. we've been discussing?
19. A. No.
20. Q. Beyond the TVPRA, do you understand
21. there to be any other legal obligations the

22. agency has that bear on other release or
23. replacement decisions? And I'm going to set
24. aside the Flores settlement.
25. Beyond Flores, are you aware of any

0141

1. other legal obligations that bear on release or
2. placement decisions?
3. A. Yes.
4. Q. What's are those obligations?
5. A. Homeland Security Act, the U.S.
6. Constitution.
7. Q. And what's your understanding about
8. the U.S. Constitutional obligations that bear on
9. placements or releases?
10. A. That Congress writes the laws and
11. the administration then administers them.
12. Q. Okay. That sounds like a
13. separation of powers issue.
14. Do you understand the U.S.
15. Constitution to impose upon your agency any
16. substantive obligations when it comes to either
17. releasing or placing children?
18. A. Not directly.
19. Q. What indirect obligations do you
20. think it may pose?

21. A. The statutes and the court cases
22. that -- that guide our program.
23. Q. Okay. You mentioned that you
24. review certain of these decisions.
25. MR. DUNN: Mark that, please.

0142

1. (Lloyd Exhibit Number 4, HHS online
2. policy guide, bearing Bates Numbers
3. HHS000001 through HHS000003, marked for
4. identification as of this date.)
5. Q. All right. Mr. Lloyd, we've given
6. you what's been marked as Lloyd Exhibit No. 4,
7. which is a document produced to us in discovery
8. bearing Bates stamp pages 1 through 3.
9. Is this a document you recognize?
10. A. Yes.
11. Q. What is this?
12. A. This is our policy guide, online
13. policy guide.
14. Q. And you mentioned earlier a policy
15. guide section that you believe specified your
16. involvement in release decisions involving gang
17. members. Is this the policy section you were
18. referring to?
19. A. I believe so.

20. Q. Okay. So let me direct your
21. attention to at least the last paragraph of this
22. section 2.7.
23. Do you see that?
24. A. The last paragraph on this page?
25. Q. Yes.

0143

1. A. 2.7.
2. Q. Yes. 2.7.
3. A. Page 3?
4. Q. Just 2.7.
5. A. Oh, I see.
6. Q. At the top section.
7. A. Okay.
8. Q. Am I -- is it correct to say that
9. section 2.7 is a policy guide section that
10. provides the standards for release of children in
11. UC -- in the program?
12. A. Yes.
13. Q. And I want to focus your attention
14. at the end of that section 2.7, which talks about
15. elevation of release decisions to the ORR
16. director.
17. Do you see that?
18. A. Yes.

19. Q. Okay. Is there a new requirement,
20. namely, the elevation, that was put in place when
21. you became the director last year?

22. A. Yes.

23. Q. Okay. This section says "The ORR
24. Director or designee makes release decisions for
25. children in these types of facilities."

0144

1. Have you designated anyone else to
2. make these decisions?
3. A. The deputy director.

4. Q. Okay. And from time to time has
5. the deputy director made decisions without you
6. having to make the final decision?

7. A. Yes.

8. Q. Okay. Do you have any idea how
9. many such cases there are?

10. A. No.

11. Q. All right. When you talked about
12. having between 100 and I think you said 120 cases
13. that you had reviewed --

14. A. Yes.

15. Q. -- are those only the cases that
16. you personally reviewed and made the decision on?
17. A. Yes. There's a -- the answer to

18. the question is I reviewed.

19. Q. All right. So, to the extent that

20. a deputy director separately made decisions,

21. those would be on top of that 100 to 114?

22. A. It could be.

23. Q. It could be?

24. A. Right.

25. Q. Has the deputy director had

0145

1. authority to make placement decisions -- excuse

2. me -- release decisions throughout your tenure?

3. A. I believe so.

4. Q. Has the deputy director had

5. authority to make release decisions as your

6. designee for any particular category of cases?

7. A. Yeah.

8. Q. What's that category?

9. A. That's what -- it's -- it's less

10. complicated cases having less to do with violence

11. and more to do with lower forms of misbehavior

12. and/or escape attempts.

13. Q. All right. So the deputy director

14. has had responsibility for cases that involve

15. lower forms of misbehavior and escape attempts;

16. is that correct?

17. A. Yes.

18. Q. Is there anything in writing that

19. spells out which cases you're reviewing versus

20. which cases the deputy is reviewing?

21. A. No. I trust the deputy's judgment.

22. Q. So how was that distinction between

23. the cases you're getting and that he or she is

24. looking at conveyed to the deputy?

25. A. In a conversation.

0146

1. Q. All right. And is that a

2. face-to-face conversation?

3. A. Yes.

4. Q. To your knowledge, is there

5. anything in writing that spells out that --

6. A. No.

7. Q. -- distinction? And so I take it

8. for most of the time it was Mr. White who was

9. handling those cases?

10. A. Yes.

11. Q. And was he the one who would decide

12. whether or not a particular case was one for him

13. to review, as well as there being one for you to

14. review?

15. A. According to the framework we

16. discussed, yes.

17. Q. And is that true with his

18. successor?

19. A. Yes.

20. Q. And is she reviewing cases, as far

21. as you know?

22. A. Yes.

23. Q. Okay. And when Mr. White was

24. reviewing cases and he made a decision, would you

25. even learn of that decision?

0147

1. A. Not necessarily.

2. Q. Have you ever seen a report that

3. lists cases that he alone has reviewed and the

4. outcomes of those reviews?

5. A. No.

6. Q. What was the reason why the new

7. director-level review of release decisions was

8. implemented in March of 2017?

9. A. There are a number of reasons. So

10. I can't boil it down to just one. One was in

11. order to gain visibility into the release

12. decisions of the most difficult cases.

13. The other is to gain accountability

14. for the release decisions within a program. And

15. the program that I run. So that if something
16. went wrong, then I wouldn't -- there wouldn't be
17. the appearance that it wasn't something that I
18. didn't own personally. And so it's -- it was in
19. an effort to gain account -- accountability for
20. myself and visibility.

21. Q. Any other reasons that you recall
22. for the institution of this director-level
23. review?

24. A. Well, there were a number of
25. highly -- high-profile cases involving UACs that

0148

1. were making the news right around the time that I
2. joined the program. And that visibility and
3. accountability I think served to put the program
4. on -- on notice of how we're going to approach
5. the most dangerous or the potentially most
6. dangerous releases.

7. Q. Can you tell me -- you said there
8. are a number of high-profile cases. What were
9. those cases?

10. A. There -- there are, like I said, a
11. number of them. And some of the details run
12. together.

13. Q. Okay. Do you remember any of the

14. details?

15. A. Well, one -- one is -- was

16. internally high profile because it involved

17. litigation surrounding a former gang member and

18. the details of his story were fresh in mind.

19. Another were the alleged accounts

20. of rape in Montgomery County by UACs that were

21. later determined to be false allegations. And

22. there were some other instances, if memory

23. serves, in Fairfax County, Virginia of violence

24. incidents, and we were able to look into whether

25. there had been -- they had been involved in the

0149

1. UAC program and confirm it.

2. Q. And what came of that?

3. A. The community safety policy.

4. Q. Okay. But what -- what came of the

5. incidents in Fairfax County, as far as you --

6. A. Oh, I don't recall.

7. Q. Okay.

8. A. Arrests and allegations surrounding

9. gang violence.

10. Q. All right. Who made the decision

11. to institute this director-level review?

12. A. I did.

13. Q. And did you make that in
14. consultation with anyone outside the agency?
15. A. No.
16. Q. Had you had --
17. A. Sorry.
18. Q. Go ahead.
19. A. I answered the question for the
20. department. I consulted within the agency and
21. the department, HHS.
22. Q. And when you say "HHS," who
23. specifically are you referring to?
24. A. I -- as a matter of course, I would
25. have reported on -- on the development of the

0150

1. policy to Steve Wagner and Maggie Wynne.
2. Q. Was this policy your idea?
3. A. Yes.
4. Q. Had you considered instituting this
5. policy while you were the special adviser before
6. becoming the director?
7. A. No.
8. Q. Other than Mr. Wagner and
9. Ms. Wynne, did you have any conversations with
10. anyone else in government outside of ORR about
11. the creation of this new review?

12. A. No.
13. Q. Did you have any conversations with
14. anyone in the White House about this new review?
15. A. Before? After?
16. Q. Before.
17. A. No.
18. Q. Did anyone from the White House say
19. to you in sum and substance, there's a problem
20. arising from these incidents. You need to start
21. thinking about reviewing cases?
22. A. No.
23. Q. Did anyone other than Ms. Wagner
24. and Ms. Wynne have a conversation like that with
25. you?

0151

1. A. No.
2. Q. Were there any documents that you
3. reviewed in deciding to institute this policy?
4. A. Just news reports.
5. Q. And regarding these reports of
6. these -- at least these two incidents, namely,
7. the one in Montgomery County and the one in
8. Fairfax County?
9. A. Yeah. We -- the agency ACF,
10. receives media clips every day. And they were --

11. they were among these media clips.
12. Q. And I'm sorry if I missed this.
13. The Fairfax County incident, did that involve
14. people who allegedly were gang involved?
15. A. Yes.
16. Q. Was your primary concern in
17. instituting this policy a concern about release
18. of gang members into the community?
19. A. In one of the -- one of the primary
20. concerns.
21. Q. What would be another primary
22. concern?
23. A. The safety of the UAC themselves.
24. The other UACs in custody with them.
25. Q. All right. Is that going to the

0152

1. issue of placements as opposed to release?
2. A. Mostly.
3. Q. All right. So in terms of at least
4. instituting the policy of your or your designee
5. personally reviewing and approving releases, is
6. it correct that your primary concern in
7. developing that review was the concern about gang
8. members being release into the community?
9. A. Well, people who are potentially a

10. danger to others being released into the
 11. community. Often gang members are a subset.
 12. Q. All right. You said earlier that
 13. the gang member concern was a primary concern.
 14. Are you suggesting that there are
 15. other forms of danger that were as much of a
 16. concern as the gang concern when it comes to
 17. safety?
18. A. Yes.
 19. Q. Okay. What are those -- those
 20. other categories?
 21. A. General violence not related to a
 22. gang.
 23. Q. Okay. When you adopted the policy,
 24. did you know -- have any episodes of
 25. nongang-related violence perpetrated by someone

0153

1. released from the UC program?
2. A. I don't know.
3. Q. Okay. We know that the two
4. incidents, at least as you recall as sit here
5. today, were both gang incidents; is that correct?
6. A. Yes.
7. Q. All right. With respect to -- can
8. we go back to 2.7 for a moment.

9. A. Yes.

10. Q. I just want to make sure I

11. understand exactly what this applies to.

12. So is it correct that -- setting

13. aside the language just for the moment -- that

14. under this policy any child in ORR custody in the

15. UC program who is or has been in a secure or

16. staff secure placement at any time cannot be

17. released unless you or your designee personally

18. approve the release?

19. A. Yes. That's correct.

20. (Lloyd Exhibit Number 5, 3/14/17

21. UCPolicy(ACF) email, bearing Bates

22. Number HHS000015, marked for

23. identification as of this date.)

24. Q. All right. Mr. Lloyd, I'm showing

25. you a document that's been produced to us in

0154

1. discovery. It's Bates stamped H15. It is a

2. March 24, 2017, email at 1:24 p.m. It appears to

3. be an email coming from ORR announcing a new

4. policy of release reviews.

5. A. Okay.

6. Q. Is this an email you've seen

7. before?

8. A. I don't think I have seen it.
9. Q. Let me direct your attention to the
10. highlighted text near the top. I don't know
11. who's highlighting this is, but it reads "Federal
12. Field Specialists may not approve a release from
13. a secure or staff secure facility until they
14. receive notification from Jonathan to approve the
15. release."
16. This could be construed to talk
17. about placement changes, as opposed to releases
18. to a sponsor. And I just want to make sure I
19. understand again that 2.7, as you understand it,
20. concerning your review is a release decision to a
21. sponsor, for instance, as opposed to movements
22. amongst placements; is that correct?
23. A. Yes. That's correct.
24. Q. Okay. All right.
25. A. And I am not typically involved in

0155

1. the transfer process.
2. Q. What is the reason why you chose to
3. have your review or the review of your designee
4. for all children who are or had been in either a
5. secure or staff secure placement?
6. A. What was my reason for instituting

7. the policy?

8. Q. With respect to that particular

9. population.

10. A. As opposed to other populations.

11. It's again visibility and

12. accountability over the release of those who

13. could be or are potentially the most dangerous

14. elements of our program, individuals in our

15. program.

16. Q. Well, for instance, let's just take

17. children who at some point were in staff secure

18. who might now be in shelter.

19. A. Uh-huh.

20. Q. Do you have any reason to think

21. that some significant percentage of them would

22. present a current danger?

23. A. Of staff secure?

24. Q. People who are in shelter who had

25. been in staff secure.

0156

1. A. In shelter. A significant -- could

2. be a danger. If they're a danger, they're not

3. going to be released.

4. Q. Okay. I'm just trying to

5. understand, for instance, kids who are currently

6. in secure, presuming they are kids who the agency
7. has determined right now present the greatest
8. issues.

9. A. Correct.

10. Q. But there are on the spectrum kids
11. who were in staff secure sometime ago and now
12. step down to the shelter, one can say are at the
13. other -- are at the other end of the spectrum?

14. A. Yes.

15. Q. So what is it about, for instance,
16. kids who are in shelter who had been in staff
17. secure at some point in the past but have been
18. stepped down, why in your mind is it appropriate
19. for them to be subject to director-level review?

20. A. Well, they've done something that
21. warranted step-up into staff secure.

22. Q. When you instituted the policy, did
23. you make any effort to assess the characteristics
24. of the population at that time who had been in
25. staff secure or secure placements?

0157

1. A. The character of the population?
2. Q. The characteristics of them?
3. A. Characteristics. No.
4. Q. Okay. What information, if any,

5. did you have about children in ORR custody at the
6. time you adopted the policy who had been either
7. in secure or staff secure placements?

8. A. Well, that there were those among
9. our shelter population who had been in secure,
10. staff secure, and who had been stepped down.

11. Q. Would it be fair to say that's the
12. sum total of what you knew about that population?

13. A. Which population?

14. Q. The children who, at the time you
15. adopted the policy, had been either in staff
16. secure or secure.

17. A. Yes.

18. Q. Did you make, in conjunction with
19. the adoption of that policy in March of last
20. year, any effort to determine the number of
21. children who were going to be covered by the
22. policy?

23. A. We had a general idea already from
24. information we had gleaned for other purposes.

25. Q. Okay. What was your general sense

0158

1. of how many people would be subject to the
2. policy?

3. A. Well, it's -- it's -- it was driven

4. by the numbers that we -- we already knew were in
5. the secure and staff secure pop -- populations.

6. Q. All right. That would tell you how
7. many people were in secure or staff secure, but
8. would not tell you how many people had been?

9. A. Right.

10. Q. Did you have any reasonable
11. estimate or make -- put it this way: What effort
12. did you make, if any, to estimate the number of
13. people that would be subject to the policy when
14. you instituted it?

15. A. We didn't make an effort.

16. Q. Okay. Are there any written
17. criteria that govern your review or the review of
18. your designee with respect to this population of
19. kids when you were assessing whether or not they
20. should be released?

21. A. Written criterion is in our
22. statute: Dangerous to one's self or to the
23. community.

24. Q. All right. So that's -- that's the
25. criterion that you're using for your review?

0159

1. A. Yes.

2. Q. Okay. Any other criterion that

3. you're using?
4. A. Any other criteria that are outside
5. our statute would be inappropriate.
6. Q. Well, you have a policy guide that
7. has lots of information in it. But is it fair to
8. say that the primary thing you're looking at when
9. you review a case is dangerousness?
10. A. Yes.
11. Q. Okay.
12. (Lloyd Exhibit Number 6, AC&F
13. publication regarding FAQ:ORR Director's
14. Release Decision, bearing Bates
15. Numbers HHS000006 and HHS000007, marked
16. for identification as of this date.)
17. Q. All right. Mr. Lloyd, I'm showing
18. you a document that's been produced in discovery.
19. It's Bates stamped pages 6 and 7. And it is
20. labeled "Division of Policy and Procedures
21. FAQ:ORR Director's Release Decision."
22. Is this a document you've seen
23. before?
24. A. Yes.
25. Q. Do you know when this document was

0160

1. issued?

2. A. No.

3. Q. Let me direct your attention to the
4. very end of the document. So there's a question
5. and an answer?

6. A. Yes.

7. Q. And you'll see it reads in part,
8. "The ORR director assesses each case individually
9. under the same ORR release policies used to
10. approve or deny a release to a sponsor found in
11. the ORR Policy Guide, section 2.7"?

12. A. Yes.

13. Q. Do you understand this question and
14. answer to be a statement that you are applying
15. 2.7, or the standards in 2.7 to make release
16. decisions?

17. A. Yes.

18. Q. So let's go back to 2.7, which is
19. in the exhibit you already have.
20. When you are making a release
21. decision, do you sit there and use section 2.7 in
22. assessing that decision? Because it has a number
23. of criteria in it.

24. A. I don't have 2.7 out in front of me
25. when I make the release decision.

0161

1. Q. Okay. Is there anything that's in
 2. the Exhibit No. 6 that we just showed you, that
 3. FAQ that's not dated, in that language that is
 4. inconsistent with your -- what you understand to
 5. be a practice when you review release decisions?
 6. A. No. Except that it could say -- it
 7. could say "or the director or his designee
 8. assesses," but then it references 2.7, which
 9. provides clarity.
10. Q. When you are assessing safety or
 11. dangerousness, are you working from an assessment
 12. that comes from someone in the field or are you
 13. assessing it anew?
14. A. Yes. I am -- I'm working from a
 15. recommendation from the field. And also the
 16. deputy makes a recommendation as well.
17. Q. Okay. So we'll come back to that.
 18. I want to make sure I'm -- it's clear about the
 19. policies here.
20. Are there any timelines that you
 21. know of that govern your review process?
22. A. As soon as possible.
23. Q. Okay. Is there anything in writing
 24. that you know of that constitutes a required
 25. timeline for you to complete your review process?

0162

1. A. No. Apart from -- without
2. unnecessary delay under our statute.
3. Q. Namely, the requirement of a prompt
4. placement? Is that what you're referring to?
5. A. At least without unnecessary delay.
6. Q. Okay. But in terms of beyond
7. whatever's in the statute, you don't know of
8. anything in writing that prescribes a time period
9. during which you have to complete your review?
10. A. No. It's a individualized
11. assessment each time.
12. Q. Well, I understand that. But
13. you're saying you don't know of any written
14. requirement that there -- your assessment be
15. completed within a specified period of time?
16. A. No. A written standard would cut
17. against the individualized nature of the
18. exercise.
19. Q. Okay. Let me direct your attention
20. in section 2.7, the -- your policy guide.
21. A. Yes.
22. Q. Go to 2.7.7, which is a section
23. labeled "Notification of Denial."
24. A. Yes.
25. Q. Are you familiar with that section?

1. A. Yes.

2. Q. Okay. The first sentence of that
3. section, if you could just read it to yourself.

4. A. Of 2.7.7?

5. Q. Uh-huh.

6. A. "If the ORR Director denies
7. reunifica" -- to myself? I'm sorry.

8. Q. I said to myself. You can read
9. it out loud for the record. That's fine.

10. A. ". . . the reunification
11. application of an unaccompanied alien child's
12. parent or legal guardian, the ORR Director
13. notifies the parent/legal guardian by sending a
14. denial letter to the parent/legal guardian within
15. 30 business days of receiving all the required
16. information and documentation in a specified
17. [specific] case."

18. Q. Okay. Do you -- having seen this
19. now, is this a timeline that requires you to
20. complete your review within 30 business days of
21. receiving all the information for the case?

22. A. Yes.

23. Q. All right. So were you unaware of
24. this when you answered the question before?

25. A. No. I had -- it doesn't -- it

1. rarely gets anywhere near 30 business days.
2. Q. Okay. So with respect to the
3. triggering of this, when it says "of receiving
4. all the required information," what does that
5. refer to, as you understand it?
6. A. The -- the -- all of the
7. information that's a part of the sponsor, family
8. reunification packet.
9. Q. And that's receipt by whom or by
10. what?
11. A. That would be by the program and
12. case manager.
13. Q. That's somebody in the field?
14. A. Yes.
15. Q. Okay. So you're saying that the
16. 30-day business day clock in this section starts
17. running when that information is provided to the
18. case manager in the field.
19. How does the agency keep track of
20. the 30 business days that start running upon
21. receipt of that information?
22. A. At the -- in -- in the field level.
23. Q. Do you know how they actually do
24. it?

25. A. Upon -- they begin counting

0165

1. business days upon receiving all of the
2. information.

3. Q. But do you know how they track
4. compliance with this?

5. A. Well, it becomes part of the UAC's
6. record that all of the information is received,
7. and then they're able to count 30 business days.

8. Q. Okay. Do you know of any system
9. that's in place within ORR to track compliance
10. with this 30-business-day requirement?

11. A. This is it. The policy.

12. Q. Well, I understand it's a mandate.
13. What I'm asking you is, in terms of compliance
14. with the mandate, do you know of any system
15. that's in place by which the agency actually
16. monitors and tracks compliance with the mandate?

17. A. No. I don't think that -- that the
18. agency goes out of the mandate.

19. Q. I'm not asking if you go out of it.
20. I'm asking if you have any way to measure
21. compliance with it.

22. A. Denials to parent and legal
23. guardian are very rare. And so therefore it's

24. such a case-by-case basis that those who are
25. handling the case are well aware of how far into

0166

1. the 30 business days they are.
2. Q. Is it your understanding this
3. 30-day clock only applies if a release is denied?
4. A. Yes.
5. Q. All right. So do you know of any
6. comparable, and I don't mean 30-business-day
7. comparable, but at any timeframe that governs the
8. period of time in which the agency has to decide
9. to approve a release?
10. A. Without unnecessary delay.
11. Q. Well, I understand that notion,
12. which you previously said comes from the legal
13. statute.
14. A. It's a legal mandate. It's not a
15. notion.
16. Q. All right. The legal mandate of
17. the statute?
18. A. Yes.
19. Q. All right. Beyond what the statute
20. provides, is there any agency policy that you
21. know of that prescribes a specific period of time
22. in which approvals of release must be made?

23. A. My understanding is that the
24. statute is the policy.
25. Q. Do you know of any written policy

0167

1. of the agency that includes such a specific
2. timeline?
3. A. The timeline is without unnecessary
4. delay.
5. Q. Mr. Lloyd, I don't want to burn up
6. a lot of time here, but I'm asking a very
7. specific question, and I'd appreciate it if we
8. could try to get to the answer.
9. A. Sure.
10. Q. Do you know of any written policy
11. from -- the agency has in place that provides a
12. specific timeline by which approvals of release
13. have to be made?
14. A. There's not a specific timeline.
15. The timeline is as -- without unnecessary delay
16. on a case-by-case basis.
17. Q. Are you aware that this 30-day
18. business policy for denials was changed in 2017?
19. A. Yes.
20. Q. And do you understand that changed
21. from seven days to 30 days?

22. A. Yes.

23. Q. And why was it changed from seven

24. days to 30 days?

25. A. To -- to give the -- give enough

0168

1. reasonable amount of time for the agency to
2. perform its review.

3. Q. At the time that the policy was
4. changed, do you know the extent to which the
5. agency was complying with the seven-day
6. requirement?

7. A. No.

8. Q. As you sit here today, do you have
9. any idea of the extent to which, since the 30-day
10. requirement was put into place, the agency has
11. complied with the 30-day requirement?

12. A. Yes.

13. Q. What's your understanding of that?

14. A. Very high, if not complete.

15. Q. And what's the basis on which you
16. have that understanding?

17. A. Well, I -- I do the denials, so
18. I -- I have some involvement of each of these
19. denials. So visibility on -- on those instances.
20. Q. So when you say you do the denials,

21. does that mean that any time a release is going
22. to be denied you're the one who makes that
23. decision?
24. A. As the director, denies, yes.
25. Q. Okay. But is the deputy director

0169

1. authorized pursuant to your designation to deny
2. releases?
3. A. No.
4. Q. Okay. So all releases --
5. A. To parents and legal guardians.
6. Q. Right. You're the one who makes
7. the final decision on any denial; is that
8. correct?
9. A. Yes.
10. Q. Okay. Over the course of your
11. tenure, how many denials would you say you have
12. made?
13. A. A dozen or less.
14. Q. Okay. And with respect to that
15. dozen or less, do you have any information about
16. the extent to which those decisions were made
17. within the other seven or now 30 business days
18. from receipt of the documents from the field to
19. the case manager?

20. A. My understanding is that they were
21. all within the 30 days. And my expectation would
22. be that if we were outside the 30 days that I'd
23. be made aware of that.
24. Q. Okay.
25. MR. BYARS: Is this a good time for

0170

1. a break? I don't want to interrupt your --
2. MR. DUNN: It's -- it's a break in
3. the question, so yes. We're going to go on to
4. the next topic.
5. MR. BYARS: All right. Very good.
6. THE VIDEOGRAPHER: Going off the
7. record at 2:27.
8. (Recess taken.)
9. THE VIDEOGRAPHER: We are going
10. back on the record at 2:40. This begins disk
11. No. 4.
12. BY MR. DUNN:
13. Q. Mr. Lloyd, in terms of the process
14. of reviewing release decisions at your level,
15. does any person or agency outside of ORR play a
16. role in that?
17. A. No.
18. Q. If I can, let me direct your

19. attention back to the ACS information memo.

20. A. Exhibit --

21. MR. BYARS: Do you have a specific

22. number?

23. MR. DUNN: That -- that's it right

24. there (indicating).

25. MS. PADMANABHAN: Exhibit 2.

0171

1. MR. DUNN: This one?

2. MS. PADMANABHAN: Yeah.

3. Q. Let me direct your attention to

4. the -- actually, the third page of the memo.

5. A. Okay.

6. Q. The second paragraph talks about an

7. MOA with DHS.

8. A. Yes.

9. Q. And talks about consultation on the

10. suitability of release from secure and staff

11. secure facilities, and the suitability of

12. sponsors.

13. A. Yes.

14. Q. Can you just review to yourself

15. that paragraph.

16. A. Okay.

17. Q. Since this memo from August of 2017

18. has there been any sort of agreement entered with
19. DHS about it playing a role in release decisions?
20. A. Yes.
21. Q. And what's the agreement now with
22. DHS about its role in release decisions?
23. A. It's a along the lines of
24. information sharing. So it solidifies what
25. information we receive and what information they

0172

1. receive.
2. Q. Okay. When ORR is making a
3. decision to release, or whether to release a
4. child, is it consulting with the DHS personnel
5. during the course of that review?
6. A. No.
7. Q. All right. At any time when you
8. are reviewing a particular case, do you consult
9. with someone at DHS before you make a final
10. decision?
11. A. No.
12. Q. Do you understand Mr. White or his
13. successor have done that when they are reviewing
14. cases?
15. A. Yes. But it -- it's in order to
16. gather more information. So it's not

17. consultation. It's information sharing.

18. Q. So would it be fair to say that, at

19. least from your perspective as you understand it,

20. DHS has no say in whether a child is released or

21. not from ORR custody?

22. A. Yes. That's right.

23. Q. And is it fair to say that the

24. process for making the decision does not require,

25. before the final decision can be made, a

0173

1. consultation with DHS?

2. A. Consultation, no.

3. Q. Is there a document now that exists

4. that reflects this arrangement with DHS?

5. A. Yes.

6. Q. And what is that document?

7. A. It's a memorandum of agreement.

8. MS. FABIAN: Can we take a quick

9. break?

10. MR. DUNN: Can we take a quick

11. break?

12. MS. FABIAN: Yeah.

13. MR. DUNN: Of course.

14. MS. FABIAN: Thank you.

15. THE VIDEOGRAPHER: Going off the

16. record at 2:44.

17. (Recess taken.)

18. THE VIDEOGRAPHER: Going back on

19. the record at 2:46.

20. MR. DUNN: All right. Let the

21. record reflect that the witness stepped out with

22. his counsel. We're back on.

23. BY MR. DUNN:

24. Q. Is there something you want to say

25. now?

0174

1. A. Let's just return to the question,

2. if we could.

3. Q. Okay. Well, the question was asked

4. and answered.

5. A. Okay.

6. Q. Do you want to change your answer

7. or amend your answer?

8. A. I don't remember the question,

9. sorry.

10. Q. Okay. On those occasions where you

11. might be getting information from DHS as part of

12. the review process, what type of information

13. would you be getting?

14. A. From DHS?

15. Q. Yes.

16. A. It's a -- it's a list of forms that

17. DH -- DHS uses, and in various situations. So if

18. there's known criminal activity or criminal

19. record, they use a form and -- and we would

20. receive that as pursuant to an MOA.

21. Q. And would you be receiving that at

22. the point at which you or your designee are doing

23. the review or that would have already been

24. collected as the case was coming up to you?

25. A. Yeah. It would have been collected

0175

1. as it was coming -- coming up to me.

2. Q. All right. So does that mean that

3. once you get the case you're not at that stage

4. then, independently or in addition, seeking

5. information from DHS?

6. A. That's currently the case, yes.

7. Q. It's currently the case that you

8. are not seeking information once you have the

9. case?

10. A. Yes.

11. Q. Okay. Was that previously not the

12. case?

13. A. Very early there were occasions

14. where we were receiving like secondhand reports
15. of criminal activity, summaries where we wanted
16. to drill down into the source documents.

17. Q. You were receiving those secondhand
18. from DHS?

19. A. Yeah.

20. Q. Okay. And then that would prompt
21. you to go figure out if what's in the documents
22. from DHS was in fact accurate?

23. A. Yes.

24. Q. Okay. Can you estimate in how many
25. instances that scenario happened?

0176

1. A. Three to four.
2. Q. In terms of that information being
3. collected before you got the case, is it being
4. collected by field staff or by other headquarters
5. staff before you and Mr. White, when he was the
6. deputy director?

7. A. Now it's collected by field staff.

8. Q. And previously it had been
9. collected by headquarters staff?

10. A. Yeah. Where -- where the records
11. seemed incomplete, headquarters staff was -- was
12. involved, mainly Jim De La Cruz.

13. (Reporter-initiated discussion off
14. the record.)

15. Q. Okay. Other than consultations
16. with DHS, is there any other federal agency that
17. is playing any role in the review process that's
18. being conducted at the headquarters level of
19. release decisions?

20. A. You said other than DHS?

21. Q. Yes.

22. A. No.

23. Q. Okay. Is any nonfederal agency,
24. such as a local law enforcement agency, playing
25. any role in the headquarters-level review process

0177

1. for release decisions?
2. A. No.
3. Q. Okay. You had mentioned before the
4. community safety initiative?
5. A. Yes.
6. Q. Can you describe for me what that
7. was or what it is?
8. A. It's a -- it's a number of steps
9. that are taken in order to ensure that our
10. releases are duly mindful of concerns over
11. community safety.

12. Q. Okay. And what were the specific
13. steps that you took that you recall?
14. A. They're outlined in this -- in this
15. memo.
16. Q. Okay. And this memo, just to be
17. clear, is marked as Lloyd Exhibit 4?
18. A. Yes.
19. Q. Is that correct? The ACS memo from
20. August 2017?
21. MR. BYARS: I'm sorry, it's
22. Exhibit 2?
23. MS. FABIAN: Exhibit 2.
24. MR. DUNN: Just making sure
25. everyone's still awake.

0178

1. MR. BYARS: Thanks for that.
2. MR. DUNN: Sure. The public
3. service I'm doing.
4. Q. Okay. At whose initiative did the
5. community safety initiative take place?
6. A. Mine.
7. Q. Yours.
8. A. In consultation with UAC staff.
9. THE COURT REPORTER: With what
10. staff?

11. THE WITNESS: UAC staff leadership.

12. Q. Okay. And was there something in

13. particular that prompted this initiative?

14. A. Yes. This was -- we -- we kind of

15. covered this. This was -- this was where we --

16. there was a number of news reports and a desire

17. for accountability and visibility.

18. Q. All right. I'm sorry. I

19. understood those news reports to have been things

20. that happened around when you became the

21. director?

22. A. Yes.

23. Q. All right. I see.

24. So this is still connected to those

25. news reports; is that correct?

0179

1. A. Yes. And so around the time that

2. the release decisions were modified, these other

3. steps were implemented and then reported up.

4. Q. Now, you previously, when I was

5. asking you questions about various meetings you

6. had had, and we're talking about White House

7. meetings, you mentioned, as part of your

8. conversations with Steven Miller, the community

9. safety initiative?

10. A. Yes.

11. Q. All right. So let's tie that

12. together.

13. What specific role did Mr. Miller

14. have in the community safety initiative?

15. A. None.

16. Q. All right. So is it your testimony

17. that you told him about it but that's something

18. that had already happened?

19. A. Yes.

20. Q. All right. And why did you tell

21. him about it?

22. A. As part of the background of -- of

23. the UAC program.

24. Q. All right. Did anyone outside of

25. ORR play any role in the initiative that's

0180

1. described here?

2. A. Yes.

3. Q. And who played a role in that?

4. A. Personnel from the Department of

5. Justice and Department of Homeland Security.

6. Q. And what role did they play?

7. A. At the outset in determining what

8. improvements the -- if any, the UAC program

9. needed to make, we had a number of consultations
10. with DOJ and -- and DHS.

11. Q. And were those on particular
12. topics?

13. A. Just -- just on the question of
14. dangerousness and community safety that appears
15. in the -- in our statutes. It's -- we weren't
16. desiring the law enforcement perspective on
17. those.

18. Q. And would it be fair to say, given
19. the content of this memo, that the central factor
20. in the community safety initiative was dealing
21. with gang affiliation amongst children who were
22. in UC -- in the UC program?

23. A. I would say that was a galvanizing
24. issue.

25. Q. Is there any other issue you would

0181

1. describe as being that important, namely, the
2. galvanizing issue?

3. A. No.

4. Q. On the second page of this memo, in
5. the -- below the headline "Community Safety
6. Initiative," there is a bullet of sorts that's
7. headlined "No current gang members are eligible

8. for release to a sponsor from the program."

9. Do you see that?

10. A. Yes.

11. Q. Is the sentence in this document

12. the announcement of a new release policy that the

13. agency would put into effect?

14. A. Yes.

15. Q. Okay. Do you know of any --

16. A. Or gloss on any existing policy.

17. It could be -- it could be either a new policy or

18. gloss on an existing policy --

19. Q. Right.

20. A. -- regarding dangerousness.

21. Q. What existing policy do you know of

22. that stated that a current gang member was

23. ineligible for release?

24. A. Just that -- that our release

25. decisions are subject to considerations involving

0182

1. dangerousness.

2. Q. Do you know of any document

3. anyplace else that explicitly states that

4. individuals whom the agency considers to be

5. current gang members are not eligible for release

6. to a sponsor?

7. A. No.

8. Q. For purposes of this policy, what

9. defines a current gang member?

10. A. Avowed or known gang membership

11. that has not been disavowed.

12. Q. You talked earlier about there

13. being programmatic awareness about gang

14. affiliation?

15. A. Yes.

16. Q. How is that communicated, if it was

17. at all, to field staff?

18. A. Programmatic awareness of gang

19. affiliation.

20. Q. Yes. I mean, I -- I take it that

21. what you meant to say, but I don't want to put

22. words in your mouth, was that the leadership of

23. the agency had communicated to agency staff that

24. agency staff was to pay very close attention to

25. possible gang affiliation.

0183

1. A. Okay.

2. Q. Is that fair?

3. A. Yeah.

4. Q. Okay. How was that communicated to

5. agency staff?

6. A. This would be in communications
7. from the deputy director to the staff through the
8. federal field staff.
9. Q. Do you know of any particular
10. communication that addressed that particular
11. issue that in substance said we are telling you
12. now to pay very close attention to potential gang
13. affiliation?
14. A. I wouldn't be able to nail it down
15. to a particular email or if it was a conference
16. call. So the answer is pretty much no.
17. Q. Are there any written standards
18. that you know of that govern whether or not
19. someone qualifies as a current gang member for
20. purposes of the policy announced here barring
21. release to a sponsor for current gang members?
22. A. It's not written. It's a
23. program-wide understanding.
24. Q. What do you believe to be the
25. program-wide understanding about the content of

0184

1. the definition of "current gang member"?
2. A. If there is known or -- or avowed
3. membership that has not been disavowed.
4. Q. Is there a process by which agency

5. staff ask the juvenile whether they are
6. disavowing gang membership?
7. A. It's an individ -- individualized
8. process.
9. Q. Well, I understand that. But is
10. it -- is it your understanding as a matter of
11. practice some member of the agency or employee of
12. the agency actually directly asks the child in
13. your custody if they are disavowing a gang
14. membership?
15. A. It would be a necessary element of
16. a release review where a gang membership is a --
17. is an issue.
18. Q. All right. And so just to be
19. clear, when you say "a necessary element," that
20. means that, in your mind at least, it is
21. necessary for someone from the agency to
22. expressly ask the child in custody, "Are you
23. disavowing gang membership"?
24. A. Where there has been no disavowal,
25. which is very rare.

0185

1. Q. When there has not been disavowal.
2. So what I'm trying to understand is -- I'm just
3. trying to understand the decision-making process.

4. You're saying what disqualifies you
5. from release under this policy is you are an
6. avowed gang member, that's an affirmative
7. statement, or you have not disavowed it?
8. A. Yes.
9. Q. So what I'm trying to understand is
10. how it is you, as an agency, ascertain whether or
11. not someone is disavowing gang membership?
12. A. The -- the instances that I have
13. seen and I'm aware of, this becomes part of the
14. significant incident reports that accompany a
15. complete case file. And so there would be --
16. where -- wherever there's -- wherever there's an
17. indication of gang membership, affiliation, past
18. or present, there's follow-up at the clinical
19. level as to what exactly that means. And that
20. becomes a part of the record that's developed.
21. Q. But I take it you understand
22. there's a lot of territory between suspected gang
23. affiliation and avowed gang membership?
24. A. It's a spectrum.
25. Q. Okay. So as I understand your

0186

1. testimony, you're saying this policy applies only
2. to those children who say, "I am in a gang," or

3. when confronted with that accusation refuse to
4. disavow their membership in a gang?
5. A. That's correct.
6. Q. Okay. And I'm just trying to
7. understand, does the agency, as a routine matter,
8. go to a child and say, "We believe you're in a
9. gang. Do you disavow that?" as a condition of
10. determining whether or not this policy applies to
11. them.

12. A. Yeah. It -- that's -- what you're
13. saying is generally accurate. It's not exactly
14. in term -- in the specific terms of disavowal.

15. It's more along the lines of "What is your
16. current status as a gang member" or . . .

17. Q. Okay. And you're saying if the kid
18. says "I'm MS-13" --

19. A. Yeah.

20. Q. -- you conclude the kid is a
21. current gang member?

22. A. Yes.

23. Q. All right. How many --

24. A. And there are -- there are some who
25. are proud to be a gang member and -- and want

0187

1. everybody to know it.

2. Q. Okay. All right. How -- how many
3. children in ORR custody today, as far as you
4. know, are current gang members, for purposes of
5. this policy?

6. A. I would say about a dozen. But
7. this is an estimation.

8. Q. It's a big agency. Everything is
9. an estimation. I understand that. Okay.

10. And so would it be fair to say that
11. there are -- okay. For at least those dozen,
12. approximately, they're disqualified from
13. potential release?

14. A. Yes.

15. Q. All right. Let's talk about the
16. process by which you review cases. So if you
17. could, just as an initial matter, walk me through
18. the actual process from your learning that
19. there's a case to review to your final decision,
20. what's the step by step of that?

21. A. Okay. I receive -- if we -- so the
22. process has developed a little bit over time.
23. But I receive an email that previously had in the
24. body of the email contained a write-up from the
25. deputy director, along with any relevant

1. documents to the write-up. That would contain
 2. the pertinent information for me to review it and
 3. release a decision.
 4. From that email I would know which
 5. documents to examine, if further examination was
 6. necessary. It would also contain a
 7. recommendation from the deputy director. Now
 8. this -- all that information is contained in a
 9. form that we've been piloting and are getting
 10. close to finalizing.
11. Q. Okay. So let's set aside the new
12. form for the moment. Let's just keep going with
 13. the process that existed before this form.
14. So you get the email with the
15. write-up, with the documents, with the
 16. recommendation. What do you do next?
17. A. Open -- open the email, read the
18. summary and examine background documents, if
 19. necessary, for example, significant incident
 20. reports. That's usually the main thing. And
 21. then if -- if any of the documents or any part of
 22. the summary require follow-up, I'll ask of the
 23. deputy director what it is I -- I would like more
 24. information about.
25. Q. And how would you typically ask

0189

1. that?
2. A. Just respond to the email, and very
3. quickly ask about whichever element.
4. Q. And is that a common sequence where
5. you would ask for some more information?
6. A. It's common.
7. Q. Okay. All right.
8. So then what's next?
9. A. If -- if there's nothing to follow
10. up on, I respond with my -- my answer. I would
11. go into the body of the email, cut and paste the
12. name and alien number of the -- of the UAC so it
13. was clear who I'm referring to. And hit reply.
14. And then I would receive a
15. confirmation that the deputy director received it
16. and was notifying the field. In the instances
17. where there's more follow-up then I would just
18. expect an email follow-up in the form of a reply
19. to the earlier email which helps, so we can
20. examine the email chain.
21. And -- and I review the additional
22. information and on occasion that -- that leads to
23. other questions. But usually it's -- it's enough
24. to make a decision. And then I make the decision
25. upon the follow-up information.

1. Q. In terms of the documents that you
2. would get with the email, was there a standard
3. set of documents you'd receive?
4. A. No.
5. Q. Are there particular documents that
6. you would receive regularly, even if the entire
7. package was not a consistent package?
8. A. Significant incident reports.
9. Q. Any other documents that you would
10. routinely get?
11. A. Oh, yeah. The -- the release
12. recommendation from the field staff.
13. Q. How did Jonathan White -- well, let
14. me -- this is all coming from Jonathan White, at
15. least while he was a deputy?
16. A. Yes.
17. Q. How did he know which documents to
18. send you for any particular decision?
19. A. It -- it was a judgment call on his
20. part. And he got to know what it was I was
21. looking for from the questions I was asking in
22. the beginning. And so there -- there are --
23. there can be in any file a number of -- what I
24. guess I could say is that programs overreport
25. incidents out of an abundance of caution.

1. So one teenage boy slaps another
2. teenage boy with a towel. That's an
3. insignificant incident report but it's not going
4. to affect a release decision.
5. Q. All right. So the two categories
6. of documents that you mentioned you would
7. routinely receive were SIR, or the SIR reports,
8. and recommenda -- release recommendations from
9. field staff?
10. A. Uh-huh.
11. Q. Any other types of documents that
12. you would normally get from Mr. White?
13. A. If there -- yes. Psycho --
14. psychological evaluations where that's occurred.
15. And in some cases recidivism analyses, which have
16. names that I -- I don't remember the -- avoid
17. test on recidivism-type activity.
18. Q. And, as I understand your
19. testimony, there's no written listing documents
20. you're supposed to get, that that -- the
21. documents you were getting, at least from
22. Mr. White, were the product of just you having
23. worked together and him learning what documents
24. you'd want to see in cases you were reviewing.

25. Is that fair?

0192

1. A. Yes. But if I felt that it was
2. incomplete, I would have access to the SharePoint
3. of all the -- all documents.
4. Q. And would there come times when you
5. would go to SharePoint to pull up documents for
6. purposes of your case review?
7. A. Yes.
8. Q. And you have direct access to it?
9. A. Yes.
10. Q. Okay. How common was it that you
11. were taking documents from SharePoint?
12. A. Not common. The minor -- minority
13. of cases.
14. Q. Other than asking Mr. White for
15. information or ask -- or getting information from
16. SharePoint, were there other ways that you were
17. getting additional information as you were
18. reviewing a possible release decision?
19. A. No.
20. Q. Did you at any point ever have
21. direct contact with field staff, in terms of
22. trying to collect more information, as you were
23. making a decision about a release?

24. A. I think so. I think they -- they
25. would sometimes be copied and I would reply all.

0193

1. And I -- I think it's possible that there might
2. be one or two cases that were very involved where
3. there's a conference call and field staff, along
4. with Jonathan, were on the call.
5. Q. And you?
6. A. And me, yeah.
7. Q. Okay. So I'm just trying to
8. understand. You've gotten the case, you've
9. gotten the documents. You may want some more
10. information.
11. Are there instances there where you
12. are just going directly to an FFS, for instance,
13. or somebody else in the field to collect
14. information?
15. A. There may have been a few
16. instances, but it would be more like a way to
17. collapse the -- the structure so that everybody's
18. getting awareness at the same time, and it's
19. going directly to the people that have to act
20. upon it.
21. Q. In those instances where you're
22. collecting additional information, are you

23. hanging on to the case, or does the case come out
24. of your office and not come back to you until the
25. information's been collected?

0194

1. A. More the latter.
2. Q. Okay. So would it be normal, for
3. instance, you get a package, you realize there's
4. more information you want that Jonathan might --
5. perhaps should collect. You would send the case
6. back to him and say, here's the additional
7. information I want. And he would then have it
8. for some period of time and then it would come
9. back to you again?
10. A. Yes.
11. Q. Okay. And what's your sense of --
12. in the number of instances in which that was
13. happening? I don't mean particularly in an issue
14. by Jonathan White, but when you're looking for
15. additional information and the case has gone back
16. to whomever, how common was that?
17. A. I would estimate it's in a quarter
18. of the cases.
19. Q. Okay. So just to put a little bit
20. of a number on this. You said earlier that you
21. thought that you probably yourself reviewed

22. somewhere between, I think, 100, 120 cases?
23. A. Yes.
24. Q. So if we take a quarter, maybe 25
25. cases or so you might have asked for additional

0195

1. information, sent the case back to wherever, and
2. then subsequently got the case back to you; is
3. that correct?
4. A. That sounds right.
5. Q. Okay. So does that 25 number sound
6. like a ballpark correct number?
7. A. It sounds -- sounds good. I'm not
8. a numbers guy, though.
9. Q. Well, that's okay. And again I
10. realize -- I realize you have a lot of things on
11. your plate. So I'm just trying to get the best
12. sense --
13. A. Sure.
14. Q. -- besides your best guess in the
15. range of cases where that might be --
16. A. Yeah. That would be my best guess.
17. Q. Do you have any sense of how much
18. time it would take to get that additional
19. information?
20. A. That's -- that's a case-by-case

21. basis. But if it's an -- if it's an issue of
22. speaking to the -- to the clinical staff or to
23. the UAC themselves or to the family, it would be
24. shorter than if it involved gathering information
25. from law enforcement or something where another

0196

1. agency is involved.
2. Q. Okay. Do you have a sense of the
3. range, approximately, of time it would take to
4. collect that additional information?
5. A. In the former case, reaching out to
6. the UAC or -- who was directly handling the UAC,
7. I would say 48 hours. And if -- if there's law
8. enforcement involved, I would say up to 72 hours,
9. the best estimate.
10. Q. And in terms of those two
11. categories for the 25 cases approximately, how
12. many of those would be law enforcement versus the
13. internal additional information?
14. A. I -- I don't know.
15. Q. Okay. During the course of your
16. review, in addition to looking at documents that
17. you received, would you consult with any in-house
18. staff about the case, or did you?
19. A. If -- sometimes the -- the back and

20. forth that I have with Jonathan was also person
21. to person and would involve other staff, like
22. Jallyn or -- Jallyn Sualog or Jim De La Cruz,
23. typically.
24. Q. Okay. What would be their role in
25. the consultation?

0197

1. A. They would just have a little bit
2. more visibility into the case, and could produce
3. some of the details quicker in a conversation
4. than -- than Jonathan.
5. Q. Okay. In what percentage of cases
6. would you say that you just reviewed the case
7. without that sort of consultation and made a
8. decision yourself?
9. A. Without the in-person, most cases.
10. So there would only be a handful, less than five,
11. where it called for a meeting or a conference
12. call or something.
13. Q. Less than five with 100 to 120?
14. A. Yes.
15. Q. Okay. And for the balance of the
16. cases you would get the information from Jonathan
17. White, maybe it's supplemented from other
18. sources, and then you yourself were reviewing the

19. materials and making a decision; is that correct?

20. A. Yes.

21. Q. Okay. Was there -- was there any

22. instance in which you personally interviewed the

23. child as part of your decision-making process?

24. A. One instance where I interviewed

25. the child. That was the -- in the context of

0198

1. litigation.

2. Q. And what was that?

3. A. Well, it's in the context of a

4. release review.

5. Q. And what were the particulars of

6. that release review?

7. A. There was allegations of gang

8. involvement, and so there was a conference call.

9. Q. Do you remember who the -- it was a

10. conference call with the child?

11. A. Yes.

12. Q. Okay. Do you remember who the

13. child was?

14. A. If I -- I think I know. I think

15. it's -- the initials were AH. But it could be --

16. it could have been a different -- different

17. initial.

18. Q. When approximately did that happen?

19. A. Over the summer. June, July.

20. Q. I'm sorry, did you say that was in

21. conjunction with litigation?

22. A. Yes.

23. Q. And was that a lawsuit in which he

24. was challenging his detention in ORR custody?

25. A. Yeah. I believe it was a habeas

0199

1. case.

2. Q. Okay. Do you recall meeting the --

3. I'm sorry?

4. A. I hope I got that right.

5. Q. Okay. That's all right.

6. Do you recall meeting the juvenile

7. who's the named plaintiff in this case?

8. A. Yes.

9. Q. Do you remember meeting him at

10. Shenandoah?

11. A. Yes.

12. Q. Okay. How is it that you met with

13. him?

14. A. It was -- on my visit to Shenandoah

15. as part of our regular site visits. It's one of

16. our, at the time, two secured facilities. And I

17. believe at the time I'd already visited the Yolo.
18. And so this was an opportunity to see our other
19. facility.
20. (Reporter-initiated discussion off
21. the record.)
22. Q. Was your meeting with him any part
23. of your review process of whether he should be
24. released?
25. A. No.

0200

1. Q. Okay. Do you understand that he
2. was released after this lawsuit was filed?
3. A. Yes.
4. Q. Did you participate in the decision
5. to release him?
6. A. If I recall correctly, there was a
7. bond hearing where he was successful, and so
8. there -- there wasn't more for me to do at that
9. point. The rest of the determination was the
10. suitability of the sponsor, which I'm not
11. involved in.
12. And if -- and just to be clear,
13. I -- I believe that this situation did come
14. across my desk where I instructed along those
15. lines, that if there's been a bond hearing that

16. we are not going to appeal, then I -- I'm not
17. involved in the suitability determination.
18. Q. Right. So, in other words -- and
19. you said this before -- if what you're involved
20. in is a dangerousness determination, and if
21. there's, I believe you described it as a bond
22. hearing, then that determination has been made?
23. A. Yes.
24. Q. So in those instances where there's
25. a judicial determination about dangerousness,

0201

1. even the only issue being suitability, you're out
2. of the picture and you will just confirm what the
3. field staff has approved; is that correct?
4. A. Yes. Except that I -- I will also
5. ask for recommendation as to appeal. Just
6. whether we would -- it's advisable to appeal the
7. bond hearing determination.
8. Q. Okay. And you'd ask about that
9. recommendation of whom?
10. A. Our policy staff, and it would
11. usually be Toby Biswas.
12. Q. Is it your understanding that ORR
13. gets to decide whether or not to appeal a
14. dangerousness determination by an IJ?

15. A. Yes.

16. Q. And in those instances in which the

17. agency decides to appeal --

18. A. Uh-huh.

19. Q. -- do you then proceed with a

20. dangerousness assessment of that child?

21. A. It's happened very -- very rarely

22. and -- and so when it's -- when it's been

23. transferred to the context of -- of court

24. determination, then we're -- the court

25. determination, whichever the final one ends up

0202

1. being, is the -- is the final determination of

2. dangerousness.

3. Q. I understand that. But, for

4. instance, as I'm sure you know, there's a

5. substantial time -- period of time that it takes

6. to appeal one of those determinations.

7. A. Uh-huh.

8. Q. So I'm trying to figure out, let's

9. say --

10. A. Oh.

11. Q. -- on January 1 there's a hearing

12. in which an IJ determines the child is not in

13. danger. A decision is determined to appeal,

14. which might get decided six months later.
15. Are you making a decision in the
16. interim about release based upon dangerousness
17. independent of what the IJ decided?
18. A. If we're appealing, then we -- then
19. UAC remains in custody.
20. Q. Okay. So -- all right. Because in
21. that instance, if you're appealing, that means
22. you've concluded the child is a dangerous -- the
23. danger is sufficient to warrant denial of a
24. release; is that correct?
25. A. Yeah. That we're seeking -- we're

0203

1. seeking another court's determination as to
2. whether the UAC is dangerous.
3. Q. Well, I understand, by virtue of
4. the fact that you have decided to appeal, you're
5. seeking further review. But I also understand
6. from your testimony that means that you have
7. concluded that the child presents sufficient
8. danger that, in addition to appealing, at the
9. same time you're going to deny a release?
10. A. We're not -- we're not releasing in
11. that interim, that's correct.
12. Q. Okay. Who makes the decision on

13. behalf of ORR to appeal in those circumstances?

14. A. I do, in consultation with policy

15. and office of general counsel.

16. Q. And what criteria do you use to

17. make the decision of whether or not to appeal?

18. A. It's -- it's the recommendation as

19. to the prudence of the appeal, in light of the

20. facts of the -- of what we -- which facts we use

21. to make our dangerous determination.

22. Q. All right. So let's talk about

23. that. Tell me what facts you are using to

24. determine dangerousness when you are reviewing a

25. case for a possible release.

0204

1. A. Which facts for dangerousness?

2. Q. Uh-huh.

3. A. Well, it would be any -- any

4. information related to violent incidents, SIRs

5. that would indicate that UAC, if once released,

6. would be a danger to himself or to others.

7. Q. Do you have a protocol or a tool

8. that you use in making that assessment?

9. A. Of dangerousness?

10. Q. Yes.

11. A. I do not use -- I do not personally

12. use a tool in every case. It's individualized.
13. Q. Does the agency staff below you
14. have a tool that it uses that as policy is part
15. of the documents that you receive when you review
16. a case?
17. A. It's not a tool. It's an
18. individualized determination based on judgment
19. related to child welfare and all considerations
20. that are relevant to release on dangerousness.
21. Q. What formal training do you have
22. about -- that allows you to assess a dangerous --
23. dangerousness that a child presents?
24. A. I just do what any good attorney
25. would do in my shoes, which is to rely on those

0205

1. who have the training related to child welfare
2. and behavioral issues. So my training instructs
3. me to rely on those with training.
4. Q. All right. So fair enough.
5. Given that you don't have any tool
6. that you are receiving in your materials, what is
7. it that you're looking at that tells you what the
8. assessment is of the professionals about the
9. dangerousness of a child whose case you are
10. reviewing?

11. A. Their recommendation is to
12. dangerousness and suitability for release.
13. Q. So the recommendations that you're
14. receiving include a specific treatment of the
15. dangerousness of the child?
16. A. Yes.
17. Q. So if we look at case records, for
18. instance, that have come to you, and of course we
19. have some of those, there's going to be some
20. discrete discussion about dangerousness?
21. A. Yes.
22. Q. Okay. And that's something that --
23. that's a part of the records that you get that
24. you look at?
25. A. Yes.

0206

1. Q. With respect to SIRs, to the extent
2. there are additional incidents during the period
3. when the -- after the case has been elevated to
4. headquarters, do they come to you also as part of
5. your review process?
6. A. I'll do -- any relevant SIRs come
7. to me?
8. Q. Right. Things that happen after
9. the case has been elevated.

10. A. There would be. There would, yes.
 11. Q. So given your reliance upon
 12. professional staff, does that mean that you
 13. always make a final decision that's consistent
 14. with the recommendation of professional staff
 15. concerning the dangerousness of the child whose
 16. case is being reviewed?
 17. A. In most instances I do defer to
 18. the -- to the judgment of staff. And where
 19. there's anything that's -- that's unclear to me,
 20. that's where the follow-up process comes in. And
 21. it's rare if that ever -- in the end that I'm not
 22. following the recommendation of -- of staff.
23. Q. Okay. In what number of cases,
 24. since you became the director and assumed this
 25. responsibility, have you rejected the

0207

1. recommendation of staff with respect to a release
2. decision that you reviewed?
3. A. That's a difficult question to
4. answer because usually what you're describing as
5. rejection is really -- well, not real -- usually.
6. But, in any case, a discrete denial of release
7. is -- is kicked back down into an automatic
8. review process where placement is reviewed

9. regularly every 30 days. So really any --
10. there's no final denial of release.
11. Q. All right. But there are, I take
12. it, situations where -- I mean, you're getting a
13. case to review, in this class of cases covered by
14. the policy, namely, anyone who is or has been in
15. a secure or staff secure.
16. As I understand your testimony, in
17. all of those cases you had a recommendation from
18. professional staff whether to release or not; is
19. that correct?
20. A. Yes.
21. Q. All right. And then you make a
22. final decision, at least whether to release or
23. not, at that point in time?
24. A. Yes.
25. Q. Okay. So what I'm trying to

0208

1. understand is, in how many cases since you became
2. the director and had this responsibility, have
3. you at that point in time rejected the
4. recommendation of the professional staff and
5. decided either to not release at that point in
6. time, contrary to recommendation of the release,
7. or vice versa?

8. A. Between five and 10.
9. Q. And have all of those instances
10. involved your recommending or deciding to release
11. when the recommendation is not to release?
12. A. I believe so.
13. Q. In how many of the five to 10?
14. A. One or two.
15. Q. Okay. And in the other instances,
16. just to be clear, you get a recommendation from
17. staff to release, and you decided, after review
18. of the file and the materials, that at that point
19. in time the child would not be released; is that
20. correct?
21. A. Yes. That's correct.
22. Q. All right. In those instances
23. where you make a decision to not release at that
24. point in time, notwithstanding the recommendation
25. of staff, what documentation, if any, do you

0209

1. create identifying the reasons for your decision
2. to disregard the recommendation of professional
3. staff and choose not to release at that point in
4. time?
5. A. A reply email.
6. Q. And to whom does that go?

7. A. To the deputy director.

8. Q. All right. And in that reply email

9. do you provide reasons why, or have you provided

10. reasons why you were denying the release at that

11. time?

12. A. Yes.

13. Q. Okay. So, for instance, if we

14. wanted to know in the as many as nine cases, for

15. instance, where the staff recommended release,

16. you said no release at this time, there should be

17. an email in each of those cases from you to

18. Jonathan White or the deputy explaining the

19. reasons for your denial; is that correct?

20. A. There ought to be, yes.

21. (Reporter-initiated discussion off

22. the record.)

23. Q. So in those whatever number of

24. cases it is, as many as nine cases, what

25. qualifies you, in your opinion, to disregard the

0210

1. judgment of professional staff concerning the

2. dangerousness of the child?

3. A. It's just inherent in the position

4. of the director that I am, for the secretary's

5. purposes and in the secretary's judgment, the

6. person with whom that decision rests. And it's
7. one that I take very seriously.
8. Q. All right. So I want to go back
9. and try to do a little bit of counting here,
10. because I just want to make sure I understand the
11. various numbers.

12. You have said that you think that
13. you, during your tenure, have reviewed the cases
14. of 100 to 120 children; is that correct?

15. A. Yes.

16. Q. Okay. And then I want to
17. understand, in addition to that, how many cases
18. do you believe Mr. White or his successor
19. reviewed?

20. A. I don't know. And I'm not sure how
21. to perform an estimate.

22. Q. Good for you for anticipating the
23. next question, but yes.

24. All right. You, I take it, had a
25. lot of dealings with Mr. White while he was your

0211

1. deputy?
2. A. Yes.
3. Q. Okay. And you, of course, are
4. aware that he was deciding cases that were not

5. coming to you?
6. A. Yes.
7. Q. And I take it you have a sense
8. of -- you identified the criteria where the ones
9. that he was likely to have in the end were less
10. violent incidents or attempted escapes, where you
11. would getting the more violent?
12. A. Yeah.
13. Q. You get lots of reporting orally or
14. otherwise about caseloads in your agency?
15. A. Yes.
16. Q. Let's try the question that you
17. anticipated. Given all that information, and
18. given that it is your estimate that you had
19. between 100 and 120 cases, do you have any sense
20. of how many cases Mr. White might have made
21. decisions on?
22. A. I would -- my estimate or guess
23. would be that it was a minority. Less than 120
24. that he decided not to share with me.
25. Q. Uh-huh. Okay. Would it be fair to

0212

1. say that, with respect to Mr. White, and maybe
2. you said this before, and I apologize if I'm
3. repeating myself, did he have the authority to

4. deny a release when there was a recommendation

5. from field staff to release?

6. A. Yes.

7. Q. Okay. Do you know of any instance

8. where he actually did that?

9. A. Not a specific instance.

10. Q. Do you -- would you expect that if

11. he were going to deny a recommendation to release

12. that he'd come talk to you about that?

13. A. No.

14. Q. Okay. And am I correct in

15. understanding, and I apologize if this is just an

16. essential point, but the only cases that are

17. coming up are once there's a recommendation for

18. release?

19. A. Yes.

20. Q. No one's sending up a case saying a

21. recommendation is not to release; is that

22. correct?

23. A. Yes.

24. Q. Okay. All right. In terms of the

25. notion of you having 100 to 120 cases, what's

0213

1. that estimate based upon?

2. A. Just -- just a little bit of simple

3. math where I get a few a week and roughly a year
4. times 52 weeks.
5. Q. Okay. So I'm with you on simple
6. math. If a few a week is two to four, three to
7. five, times 52, I'm in the 150, 160, 170 range?
8. A. Well, it's more -- it's sometimes
9. two, sometimes zero, sometimes three to four.
10. Q. Okay.
11. A. On a weekly basis.
12. Q. If you wanted to go back tonight,
13. Friday night, and it was just -- you had a
14. burning urge to figure out how many cases you'd
15. actually reviewed --
16. A. Yeah.
17. Q. -- would you be able to do that?
18. A. Oh.
19. Q. I'm not asking you to do it
20. tonight. I'm just asking, do you have the
21. ability to go back and identify --
22. A. It -- it shouldn't -- it should all
23. be in my inbox, outbox.
24. Q. Okay. You're referring to your
25. email inbox and outbox?

0214

1. A. Yes.

2. Q. Okay. Do you keep any log of cases

3. that you've reviewed?

4. A. No.

5. Q. Okay. Does SharePoint have the

6. capacity to generate a list of every single case

7. that was submitted to it?

8. A. I don't know.

9. Q. Do you know if Mr. White kept any

10. sort of log of the number of cases that he

11. reviewed?

12. A. I don't know.

13. Q. In the time that you have been the

14. director, do you know how many cases have come

15. out of New York for your review?

16. A. No.

17. Q. Do you recall any cases that came

18. out of New York?

19. A. Yes.

20. Q. How many do you recall,

21. approximately?

22. A. Three or four.

23. Q. With respect to the cases that you

24. have reviewed during your tenure, what is your

25. estimate of the average period of time it took

0215

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EXT-18-1509-B-000429

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

L.V.M., a minor, by and through his next friend EDITH ESMERALDA MEJIA DE GALINDO, on his own behalf and on behalf of others similarly situated,

Plaintiffs/Petitioners,

v.

Case No.
18-cv-1453 (PAC)

SCOTT LLOYD, Director, Office of Refugee Resettlement; JONATHAN WHITE, Deputy Director, Office of Refugee Resettlement; STEVEN WAGNER, Acting Assistant Secretary for the Administration for Children and Families, U.S. Department of Health and Human Services; ALEX AZAR, Secretary, U.S. Department of Health and Human Services; ELCY VALDEZ, Federal Field Speciality, Office of Refugee Resettlement; JEREMY KOHOMBAN, President and Chief Executive Officer, Children's

Defendants/Respondents.

-----x

Video Deposition of EDWARD SCOTT LLOYD

Washington, D.C.

Friday, April 13, 2018 - 9:27 a.m.

Reported by:
Amy E. Sikora-Trapp, RPR, CRR, CLR
Job no: 21383

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12

13 Deposition of EDWARD SCOTT LLOYD, held at
14 the offices of:

15 United States Department of Justice
16 950 Pennsylvania Avenue, Northwest
17 Washington, D.C. 20530

18

19 Pursuant to notice, before Amy E.
20 Sikora-Trapp, Registered Professional Reporter,
21 Certified Realtime Reporter, Certified LiveNote
22 Reporter, and Notary Public in and for the
23 District of Columbia.

24
25

1 A P P E A R A N C E S

2 ON BEHALF OF THE PLAINTIFFS:

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1 A P P E A R A N C E S

2 (Continued)

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19

20 ALSO PRESENT:

21 Martin Sherrill, Videographer

22 Natasha Waglow Teleanu, Esquire

23 U.S. Department of Justice

24 Julia Fuma, U.S. Department of Justice

25

1 C O N T E N T S

2 EXAMINATION OF EDWARD SCOTT LLOYD PAGE

3 By MR. DUNN 9

4 By MR. BYARS 261

5

6 ---TRANSCRIPT INFORMATION/REQUESTS/DIRECTIONS---

7 DIRECTIONS NOT TO ANSWER

8 (page/line)

9 18 6

10 REQUESTS

11 (page/line)

12 78 10 any documents that we discuss today

13 that you still have that you do not

14 in any way discard those documents

15

16 E X H I B I T S

17 LLOYD PAGE

18 1 copy of Lloyd résumé with addendum, 34

19 two pages

20 2 8/16/17 AC&F information memo 134

21 regarding community safety

22 initiative for the UAC program, four

23 pages

24

25

1 C O N T E N T S

2 (Continued)

3 E X H I B I T S

	LLOYD	PAGE
5	3 2/15/18 USDHS publication entitled: Unaccompanied Alien Children and Family Units Are Flooding the Border Because of Catch and Release Loopholes, four pages	138
10	4 HHS online policy guide, bearing Bates Numbers HHS000001 through HHS000003	142
13	5 3/14/17 UCPolicy(ACF) email, bearing Bates Number HHS000015	153
15	6 AC&F publication regarding FAQ:ORR Director's Release Decision, bearing Bates Numbers HHS000006 and HHS000007	159
19	7 email string, top one dated 4/3/18 from De La Cruz to De La Cruz, bearing Bates Numbers HHS022711	228
22	8 list of cases elevated to ORR, bearing Bates Number~HHS000226	232

1 C O N T E N T S

2 (Continued)

3 E X H I B I T S

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5	9 document entitled: 5a) Total Number 241 of UAC nationwide who may have been subject to the policy (March 25, 2017 to March 31, 2018) = 841, bearing Bates Number HHS000225	
10	10 form entitled: ORR Division of 253 Unaccompanied Children Operations, Recommendation to Approve Release from Secure and Staff Secure Placements, bearing Bates Numbers HHS035787 through HHS035790	
16	11 form entitled: Office of Refugee 254 Resettlement, Division of Unaccompanied Children Operations, Recommendation to Deny Release, bearing Bates Numbers HHS035783 through HHS035786	
22		
23		
24		
25		

1 THE VIDEOGRAPHER: This is tape
2 No. 1 of the video deposition of Scott Lloyd in
3 the matter of L.V.M. versus Lloyd, et al.

4 This deposition is being held at
5 the Department of Justice on April 13, 2018, at
6 approximately 9:29 a.m.

7 My name is Martin Sherrill from
8 TransPerfect, and I'm the legal video specialist.

9 The court reporter today is Amy
10 Sikora, in association with TransPerfect.

11 Will counsel please introduce
12 themselves.

13 MR. DUNN: Christopher Dunn,
14 New York Civil Liberties Union, for the
15 plaintiff.

16 MR. BYARS: Michael Byars,
17 assistant U.S. Attorney, for Mr. Lloyd and the
18 respondents.

19 MR. NEIDI: Benjamin Neidl, from
20 Jackson Lewis, for Defendant Jeremy Kohomban.

21 MR. DUNN: And I also have with me
22 Paige Austin, Aadhithi Padmanabhan, and Scout
23 Katovich, all with the New York Civil Liberties
24 Union.

25 MR. BYARS: And we also have Sarah

1 Fabian, Natasha Teleanu, and Julia Fuma.

2 THE COURT REPORTER: And Julia?

3 MR. BYARS: Fuma, F-U-M-A.

4 P R O C E E D I N G S

5 Whereupon,

6 EDWARD SCOTT LLOYD,

7 called as a witness, having been first duly
8 sworn by the Notary Public (Amy E. Sikora-Trapp),
9 was examined and testified as follows:

10 EXAMINATION BY COUNSEL

11 FOR THE PLAINTIFFS/PETITIONERS

12 BY MR. DUNN:

13 Q. Good morning, Mr. Lloyd.

14 A. Good morning.

15 Q. Again, I'm Chris Dunn with the
16 New York Civil Liberties Union.

17 A. Okay.

18 Q. When did you learn you'd be deposed
19 in this matter?

20 A. A couple of weeks ago.

21 Q. Can you tell me what, if anything,
22 you've done to prepare for this deposition?

23 A. I met with my attorneys, thought
24 and prayed.

25 Q. I'm sorry, what were the last two

1 things you said?

2 A. Thought and prayed.

5 Q. Okay. Other than the meetings you
6 had with your attorneys, did you do anything else
7 beyond thought and prayer to prepare for today?

8 A. I did check on the name of -- of
9 one of the people who may have been in one of the
10 meetings that may be relevant today.

Q. Okay. And who's that person?

12 A. Well, this is very second -- to
13 Rachel Jacobs. I wanted to make sure I had that
14 right.

15 Q. Okay. And was Rachel Jacobs in one
16 of the meetings you had with the attorneys?

17 A. No.

18 Q. Okay. What was the meeting that
19 she was in that prompted you to check her name in
20 preparation for this deposition?

21 A. Oh, this was -- this was meetings
22 with UAC.

23 Q. So is this the UAC that you met
24 with?

25 A. Yeah.

1 Q. And why did you meet with Rachel
2 Jacobs in preparation for this deposition?

3 A. Oh, no, no, no. I didn't meet with
4 her. I just -- so maybe if you'd restate your
5 original question.

6 Q. Yeah. So just as a preliminary
7 matter I want to make sure I understand what you
8 did to prepare for this description. So you
9 mentioned meeting with your lawyers, thought and
10 prayer, and you mentioned trying to identify the
11 name of this person you had met with?

12 A. Yeah. So I -- I -- yeah, I texted
13 somebody to make sure that I had Rachel Jacobs'
14 name right.

15 Q. Okay. Is Rachel Jac -- is Rachel
16 Jacobs a government employee?

17 A. Yeah. She's a project officer.

18 Q. Did you review any documents in
19 preparation for this depositions?

20 A. In consultation with my attorneys.

21 Q. Okay. Well, setting aside -- I
22 don't want to hear anything about conversations
23 you had with your attorneys.

24 Can you identify for me all
25 documents that you reviewed in preparation for

1 this deposition?

2 A. None.

3 Q. None. So that means, just to be
4 clear, you did not look at any paper in
5 preparation for this deposition?

6 A. Right.

7 Q. Did you look at any emails in
8 preparation for this deposition?

9 A. No.

10 Q. Did you review any video in
11 preparation for this deposition?

12 A. No.

13 Q. All right. So the only -- is it
14 correct that the only information that you have
15 that you obtained in preparation for this
16 deposition was what your attorneys told you?

17 A. Yeah.

18 Q. Okay. How many meetings did you
19 have with your attorneys?

20 A. Two.

21 Q. At those two meetings was anyone
22 other than one of your attorneys present?

23 A. I don't think so.

24 Q. Well, if you can think about those
25 two meetings. I just want to be clear.

1 A. Uh-huh.

2 Q. I take it those happened in the
3 last couple of weeks?

4 A. Uh-huh.

5 Q. So in either of those two meetings
6 was there anyone present other than your
7 attorneys?

8 A. I don't think so.

9 Q. When you say "I don't think so," do
10 you mean there was someone in the meeting that
11 you don't know if that person was an attorney of
12 yours?

13 A. No. I just mean, when I think
14 about it, I think there were only attorneys in
15 the room.

16 Q. Did you prepare any notes in
17 anticipation of this deposition?

18 A. No.

19 Q. Did you bring any materials with
20 you today in preparation for the deposition?

21 A. No.

22 Q. Have you looked at the complaint
23 that was filed in conjunction with this lawsuit?

24 A. Yes.

25 Q. When did you look at that?

1 A. Around the time that you had filed
2 it.

3 Q. Are you aware that there have been
4 two court conferences in conjunction with this
5 case?

6 A. I was vaguely aware. I mean, if
7 you were to ask me how many there had been, I
8 probably wouldn't have been able to say two.

9 Q. Okay. Have you seen the
10 transcripts in those two court conferences?

11 A. No.

12 Q. Do you have any information about
13 what happened in those two court conferences?

14 A. No. Very -- scheduling depositions
15 and things.

16 Q. Are you aware that the government
17 has produced to us certain documents in
18 conjunction with this lawsuit?

19 A. Yes.

20 Q. Have you reviewed any of those
21 documents?

22 A. I believe so.

23 Q. All right. Can you tell me what
24 discovery documents you've reviewed?

25 A. No.

1 Q. Can you identify any discovery
2 documents you've reviewed?

3 A. No. Probably emails and things in
4 the -- in the process of producing them.

5 Q. Okay. Well, let's set aside
6 probably. I just want to make sure --

7 A. Sure.

8 Q. -- as sit here now can you recall
9 any, including a single piece of discovery that
10 you reviewed that was produced to us?

11 A. Are you -- you're referring to the
12 documents?

13 Q. Yes.

14 A. Yeah.

15 Q. Which would include emails.

16 A. Yeah. I can't -- I can't pick out
17 the substance of any of the emails that we
18 produced.

19 Q. All right. Does that mean, though,
20 that you recall having reviewed emails that were
21 produced?

22 A. I don't have memory of me sitting
23 in a specific place reading a specific email. I
24 have a vague recollection of the process, but
25 we've got a lot going on.

1 Q. I know you have a busy life. And
2 I'm not asking about specifics. I'm asking if
3 you recall having reviewed emails that were
4 produced to us?

5 A. I recall having reviewed emails.
6 But I don't know if it was for this purpose or
7 for other purposes.

8 Q. As you sit here today, can you
9 identify any document, and I'm including
10 emails --

11 A. Uh-huh.

12 Q. -- any particular document that was
13 produced to us through discovery in this case?

14 A. Can I recall any document that was
15 produced during this case?

16 MR. DUNN: Could you read the
17 question back to him, please.

18 (Record read.)

19 A. Yes.

20 Q. Okay. And what documents do you
21 recall that you reviewed that were produced to
22 us?

23 A. That was during my meetings with my
24 attorneys.

25 Q. I don't want to know how you know

1 about it. Just if you could identify the
2 documents.

3 A. Uh-huh. But if I was reviewing
4 them in a meeting with my attorneys, then is that
5 not privileged?

6 MR. BYARS: Yeah. I'm going to
7 assert privilege because it goes to the topic of
8 what we showed him in preparation for this
9 because it would reveal our attorney-client
10 communications and also work product in relation
11 to this.

12 Q. All right. Well, I asked you a
13 question earlier, Mr. Lloyd, if you had reviewed
14 any documents at any time in preparation for this
15 deposition. You said you had not reviewed any.

16 Are you now saying you did review
17 documents? And, again, I want to be clear --

18 A. I think we would have to go back,
19 because that's not the question that I recall you
20 asking.

21 Q. Okay. Well, that's a great thing
22 about a reporter and a transcript.

23 A. Right.

24 Q. We don't have to rely on our
25 memory. So let me reask the question.

1 A. Sure.

2 Q. In preparation for this deposition,
3 did you review any documents?

4 A. I review -- I can recall reviewing
5 one document in a meeting with my attorneys.

6 Q. Okay. What's the document that you
7 reviewed?

8 MR. BYARS: I'm going to assert our
9 privilege here, work product and attorney-client
10 privilege, as to the documents that we selected
11 as part of our review process.

12 I'm going to instruct the witness
13 not to answer as to the documents that were
14 selected for him to review as part of our
15 preparation.

16 MR. DUNN: All right. So just to
17 be clear, I didn't ask him anything about which
18 documents you selected, and I didn't ask him any
19 question about documents he reviewed specifically
20 in conjunction with meeting with you.

21 So I'll ask the question again, and
22 if you want to instruct him not to answer, of
23 course, that's your prerogative.

24 Q. Mr. Lloyd, you mentioned that you
25 reviewed one document in preparation for this

1 deposition. I'm uninterested in knowing the
2 context in which you reviewed it. But what is --

3 A. You're uninterested --

4 Q. I'm uninterested in that.

5 What is the specific document that
6 you reviewed?

7 A. And I'm being instructed not to
8 answer.

9 MR. BYARS: I believe Mr. Lloyd has
10 respond -- yes, I'm instructing him not to
11 answer.

12 MR. DUNN: Okay.

13 Q. Other than the conversations you've
14 had with your attorneys, have you discussed this
15 deposition with anybody else?

16 A. Yes.

17 Q. Who are those people?

18 A. If memory serves, Anna Marie Bena
19 and Toby Biswas.

20 Q. All right. Starting with -- I'm
21 sorry, Ann Marie Bena?

22 A. It's Anna Marie.

23 Q. Anna Marie?

24 A. Yes.

25 Q. How does she spell her last name?

1 A. B-E-N-A.

2 Q. What's the conversation or
3 conversations you had with Ms. Bena?

4 A. Just the fact of the litigation and
5 the deposition.

6 Q. And was that a single conversation?

7 A. It was probably an email.

8 Q. And did she email you or did you
9 email her?

10 A. She emailed me. It would be Anna
11 Marie or Toby.

12 Q. Okay. Well, let's start with Anna
13 Marie.

14 A. Uh-huh.

15 Q. What's the email that she sent you?

16 A. When -- when the litigation was
17 initiated, she gave us a heads up that it had
18 been done. I think we -- she received the
19 notification from OGC. The work flow typically
20 goes from OGC to our policy office to-- to me, if
21 it's -- if it's relevant. And then -- that's it.
22 So she just sent me an email.

23 Q. And is OGC your office of general
24 counsel?

25 A. Yes.

1 Q. Okay. I just want to be clear.

2 The question I was asking you is about
3 conversations you've had about the deposition.

4 A. Uh-huh.

5 Q. So was there something in that
6 email that pertained to your deposition?

7 A. Just the fact of it.

8 Q. Just the fact of the deposition?

9 A. Yes.

10 Q. All right. And what did you say in
11 response to that email?

12 A. I don't recall responding.

13 Q. And then, I'm sorry, Toby Biswa?

14 A. Biswas, yes.

15 Q. Biswas. What's the conversation
16 you had with her about your deposition?

17 A. It's -- it's a him and --

18 Q. I'm sorry.

19 A. It's all right. He -- he was
20 probably copied or he could have been the one who
21 sent me the email sending -- giving me the heads
22 up.

23 Q. All right. So this is the same
24 email you spoke of before?

25 A. Yeah.

1 Q. Anybody else that you recall, other
2 than your lawyers and the two of them, who you've
3 discussed this deposition with?

4 A. Again, just the fact of it. I am
5 in a meet -- or in a deposition today or on
6 Friday.

7 Q. Other than just the fact of the
8 deposition, have you had any conversation with
9 any of your direct substantive staff about this
10 deposition?

11 A. No.

12 Q. Was anybody in your direct staff
13 present in the meetings you had with your
14 lawyers?

15 A. No. I don't recall.

16 Q. Well, there's a difference, of
17 course, between no and I don't recall so --

18 A. Well, I mean, according to my
19 recollection, the answer is no.

20 Q. Okay. All you can testify to is
21 what you recall.

22 A. Okay.

23 Q. All right. With respect to the
24 case itself, what do you understand to be the
25 basic claims in the lawsuit?

1 A. That our review process for release
2 has -- is too long and is resulting in
3 unnecessary delay.

4 Q. And what's your understanding, if
5 any, about what the lawsuit alleges those
6 unnecessary delays are violating as a matter of
7 law?

8 A. The Flores agreement, TVPRA,
9 Homeland Security Act.

10 Q. Okay. And, I'm sorry, I think you
11 said that you have reviewed the complaint; is
12 that correct?

13 A. Uh-huh. Yes.

14 THE COURT REPORTER: Thank you.

15 MR. DUNN: Thank you, Miss.

16 Q. All right. Other than the
17 conversations you already testified to, have you
18 had any conversations with anyone, other than
19 your lawyers, about the lawsuit itself?

20 A. No. Other -- just the fact of it.

21 Q. All right. Let's go, if we can,
22 and just do -- I'm going to ask you a few
23 questions about your background.

24 A. All right.

25 Q. So can you tell me what formal

1 education you've had since high school?

2 A. I have a bachelor's degree.

3 Q. From where?

4 A. James Madison University.

5 Q. What was your major?

6 A. English.

7 Q. Did you have a minor?

8 A. No.

9 Q. All right. And when did you get
10 your BA?

11 A. 2001.

12 Q. After that any formal education?

13 A. Law school.

14 Q. Where'd you go to law school?

15 A. Catholic University of America,
16 Columbus School of Law.

17 Q. And when did you graduate, if you
18 did?

19 A. 2007.

20 Q. Are you admitted to any bars?

21 A. Virginia.

22 Q. Okay. When were you admitted to
23 Virginia?

24 A. 2008.

25 Q. Did you start at Catholic in 2005?

1 A. 2004.

2 Q. Okay. What did you do between
3 graduating from James Madison and starting law
4 school?

5 A. I was a teacher.

6 Q. Where were you a teacher?

7 A. New York City. Oh, and New Jersey.

8 Q. Good for you. Okay. Then you go
9 to law school. Graduated in 2007. You're in the
10 bar in 2008.

11 A. I had a semester of theology as
12 well.

13 Q. And where was that?

14 A. John Paul, III, Institute for
15 Marriage and the Family.

16 Q. And where's that?

17 A. That's in Washington, D.C.

18 Q. Other than that, any formal
19 education after high school?

20 A. No.

21 Q. Okay. When you were at Catholic,
22 did you take any courses that related to either
23 child welfare or immigration?

24 A. Child welfare and immigration.

25 Yeah, not directly.

1 Q. When you were at James Madison, did
2 you take any courses either in child welfare,
3 social work, or immigration?

4 A. Yes.

5 Q. What courses did you take in any of
6 those three areas?

7 A. I prepared -- I had a minor in
8 teaching, secondary education, so everything
9 related to that. Developmental psychology,
10 et cetera.

11 (Reporter-initiated discussion off
12 the record.)

13 Q. How many courses did you take in
14 that area?

15 A. I don't know.

16 Q. Do you have any certifications in
17 the social work or child welfare field?

18 A. No.

19 Q. All right. Beyond your admission
20 to the Virginia bar, are you admitted in any
21 other courts?

22 A. No.

23 Q. Have you actually practiced as a
24 lawyer?

25 A. Yes.

1 Q. What was your practice?

2 A. Well, in the Department of Health
3 and Human Services, general -- and all -- all of
4 my experience or --

5 Q. Well --

6 A. What do you mean by "practice as a
7 lawyer"?

8 Q. I mean hold yourself out to the
9 world as a lawyer and take clients and do other
10 work for those clients.

11 A. Okay. So I worked for the office
12 of general counsel in the Department of Health
13 and Human Services.

14 Q. And when was that?

15 A. 2007 to 2009. If we want to get
16 into the very details, it wasn't until probably
17 2008 that I was in the office of general counsel.
18 I was in ASPE before that.

19 Q. And what's ASPE?

20 A. Assistant secretary for planning
21 and education -- or evaluation, excuse me.

22 Q. And after your time at the office
23 of general counsel, was there any other time in
24 which you practiced as a lawyer?

25 A. Yes. Yes.

1 Q. When was that?

2 A. In -- in the periods after I worked
3 for a private law firm.

4 Q. And what was the law firm?

5 A. It was Wood Maines & Nolan, and it
6 became LegalWorks Apostolate.

7 (Reporter-initiated discussion off
8 the record.)

9 Q. And where's that located?

10 A. Wood Maines & Nolan, it's now a
11 different -- different names, but in Arlington,
12 Virginia. And then LegalWorks Apostolate is in
13 Front Royal, Virginia.

14 Q. After working for them -- and
15 excuse me. What period of time did you work for
16 that firm?

17 A. Yeah. 2009 to 2011.

18 Q. And after that did you practice as
19 a lawyer?

20 A. Yes.

21 Q. And what was that practice?

22 A. Oh, well, yeah. After that it
23 was -- I was in the policy office of Knights of
24 Columbus where I was a policy attorney, but I was
25 not part of the legal team there.

1 Q. All right. And what was the period
2 of time that you would have done that as a policy
3 attorney?

4 A. 2011 to 2006 -- '17.

5 Q. And is that until the time that you
6 came back to the government?

7 A. Uh-huh.

10 A. Yes.

11 Q. Have you ever been the subject of a
12 complaint --

13 A. There's a legal staffing between --
14 sorry. There's one -- one period.

15 Q. Uh-huh.

16 A. Between summer -- in 2009 I was
17 working for a legal staffing firm doing temporary
18 employment, legal employment.

19 Q. And on that point, if at any point
20 you remember something, it's fine to stop and
21 we'll go back and fill it in.

22 A. Okay.

23 Q. Have you been ever -- ever been the
24 subject of a complaint concerning your actions as
25 an attorney?

1 A. -- I don't know. Actually, I've
2 read of a complaint in the media, but never
3 received anything about the complaint.

4 Q. Is the complaint that you read
5 about a complaint that was, at least according to
6 the media account, filed before or after you
7 returned to the government in 2017?

8 A. After.

9 Q. Okay. So before that --

10 A. No.

11 Q. All right. Just to be clear for
12 the record, the complete question was going to be
13 before that is it correct that you were -- at
14 least don't know of any complaints that were
15 filed against you in terms of your activities as
16 an attorney?

17 A. That's correct.

18 Q. Okay. Have you ever published any
19 articles concerning social work or child welfare?

20 A. No.

21 Q. Have you ever published anything
22 concerning immigration? You need to --

23 A. I'm thinking.

24 Q. Oh. I'm sorry.

25 A. No. Yes. Well, no. Sorry. Not

1 immigration.

2 Q. All right. What have you
3 published --

4 A. Displacement.

5 Q. Displacement, okay.

6 So what do you mean by
7 "displacement"?

8 A. Displacement and war crimes.

9 Q. All right. And what did you
10 publish on that topic?

11 A. I contributed to a report that --
12 while working for the Knights of Columbus. I'm
13 trying to recall when they move -- of the report.
14 Well, I -- I don't know. Having to do with
15 genocide of Christians in the Middle East.

16 Q. Any other publications that you
17 recall as we sit here?

18 A. No.

19 Q. All right.

20 A. Regard -- regarding immigration,
21 no.

22 Q. Regarding anything?

23 A. Yeah.

24 Q. I asked you initially about social
25 work and immigration, and then you said there's

1 this one piece that you mentioned about
2 displacement and war crimes. Sounds right.

3 Now what I'm asking you is, beyond
4 those topics, have you otherwise published?

5 A. Yes.

6 Q. What publications do you have?

7 A. There -- there -- there's a number
8 of them. I worked for a while for -- well, not
9 work, but contributed to the online journal
10 Ethica Politika with a regular column. Other, I
11 guess you could say, one-offs and -- yeah,
12 other -- other one-offs throughout a number of
13 different publications.

14 Q. Have you ever publicly spoken about
15 child welfare or social work issues?

16 A. Child welfare or social work. Are
17 we including teaching in this or --

18 Q. If you taught in those two areas,
19 yes, I would include that.

20 A. No. I mean, as a teacher, does
21 it -- experience as a teacher.

22 Q. Well, I'm talking about public
23 presentations, if you -- that you --

24 A. No. No.

25 Q. And I take it, when you're talking

1 about teaching, you're talking about teaching
2 that took place in New York City?

3 A. Uh-huh.

4 Q. Okay.

5 A. Yes.

6 THE WITNESS: Sorry.

7 Q. What grades were you teaching then?

8 A. Yes.

9 THE WITNESS: Sorry.

10 A. Elementary school. Third through
11 eighth and fifth through eighth.

12 Q. Have you made any public
13 presentations about immigration issues?

14 A. Displacement issues.

15 Q. And what public presentations have
16 you made about displacement issues?

17 A. "We Are All Infidels Now." As part
18 of CPAC, I was asked to join a panel.

19 Q. And is "We All Infidels Now" the
20 title of the presentation?

21 A. It's the title of the panel.

22 Q. And when was that?

23 A. 2016. Also I was part of a panel
24 for the international roundtable for religious
25 freedom, was I believe the -- the name of the

1 organization. This is on the Hill. It was a
2 day-long conference and I was part of a panel
3 with a number of -- well, a victim of ISIS and
4 other policy people.

5 Q. And when approximately was that?

6 A. March of 2016. May have been
7 April.

8 Q. Okay.

9 MR. DUNN: Can you mark that as
10 Lloyd Exhibit 1.

11 (Lloyd Exhibit Number 1, copy of
12 Lloyd résumé with addendum, two pages,
13 marked for identification as of this
14 date.)

15 Q. Mr. Lloyd, we've handed you a
16 document, a two-page document. It's a
17 double-sided page. It bears what appears to be
18 your name on the top of it.

19 Do you recognize this document?

20 A. Yeah.

21 Q. What is this?

22 A. This is my résumé with -- with an
23 addendum.

24 Q. I'm sorry, with a what?

25 A. An addendum.

1 Q. Okay. Do you recognize this
2 particular version of the document, namely, with
3 the addendum?

4 A. I've never seen it with the
5 addendum copied and pasted, no. The addendum
6 being "Dear," redacted. "Thank you for the call
7 earlier." Starting there.

8 Q. On the bottom of the second page?

9 A. Yeah. I didn't write that.

10 Q. And is that text from what appears
11 to be an email from you?

12 A. Yeah.

13 Q. Okay. Could you take a moment and
14 look at this. And I just want to ask you if you
15 could confirm everything on this résumé is
16 accurate.

17 A. It says "Humor Columnist," but I
18 just found those articles and they're not very
19 funny.

20 Q. Well, I appreciate your sense of
21 humor about that. On that point, at least at the
22 time, was it in fact fair to characterize your
23 column as a humor column?

24 A. There -- there were attempts at
25 humor, yes.

1 Q. Okay.

2 A. Okay. It looks accurate. I don't
3 see anything that's been altered.

4 Q. Okay. And is there anything of
5 significance, in terms of your career, up until
6 the point where the résumé ends that is omitted
7 from this?

8 A. Oh. That's a very general
9 question. But very general, this -- this grabs
10 the highlights.

11 Q. Okay. Do you have any social media
12 accounts?

13 A. I don't know. I think I have a
14 LinkedIn account that's fallen into disuse. And
15 I -- I don't know if I still have a Twitter or --
16 none that I use.

17 Q. Does your LinkedIn account still
18 exist in your name?

19 A. I believe so.

20 Q. All right. So would that be -- is
21 that Edward Scott Lloyd? E. Scott Lloyd? Scott
22 Lloyd? Do you know?

23 A. I -- I don't know. I don't visit
24 it. I haven't visited it. I -- I think last
25 time I visited it was right around when I was

1 applying for this job. But if I were to try to
2 sign in, I wouldn't remember the password or
3 anything like that.

4 Q. The curse that we all face?

5 A. Yeah.

6 Q. All right. You mentioned Twitter.

7 What's your Twitter handle, if you know?

8 A. I don't know.

9 Q. If you needed to find it, could
10 you?

11 A. It would be very difficult.

12 Q. Have you ever had a Facebook
13 account?

14 A. Yes.

15 Q. Is it still active?

16 A. No.

17 Q. Okay. Do you know what your
18 public-facing identification was on your Facebook
19 account?

20 A. Yes.

21 Q. What was it?

22 A. Scott L.

23 Q. What period of time did you have a
24 Facebook account?

25 A. I don't know when I signed up. I

1 think it was in 2006-ish.

2 Q. And do you know when you closed it,
3 if that's what you did?

4 A. Winter of 2016, 2017.

5 Q. And why did you close it?

6 A. I don't like Face -- I don't like
7 Facebook. And it's -- it's something that I just
8 tried to stay away from and then decided to get
9 off of it, especially as I was heading into
10 government work.

11 Q. Any other social media accounts
12 that you can think of?

13 A. No. None that are active.

14 Q. Well, let's set aside anything
15 that's active.

16 Have you ever had any other social
17 media accounts?

18 A. Like Myspace, random.

19 Q. Okay. Do you happen to remember
20 what your account name was --

21 A. No.

22 Q. -- for your Myspace account?

23 A. No.

24 Q. That was a long time ago?

25 A. Yeah.

1 Q. Okay. Other than your government
2 email, do you have any email accounts?

3 A. Yup.

4 Q. What are your email accounts?

5 A. I've got a Gmail account and a
6 Yahoo account.

7 Q. All right. What are your -- what's
8 your Gmail address?

9 A. Edwardscottlloyd.

10 Q. No spaces?

11 A. Right.

12 Q. And what about your Yahoo account?

13 A. Edwardscottlloyd.

14 Q. Have you ever used either of those
15 accounts to -- for any professional purposes,
16 starting with your position at ORR?

17 A. Yes. I was -- I was having trouble
18 as my account was getting set up upon first going
19 into the government where -- because my first

20 name is Edward and my middle name is Scott.

21 My -- my official account became -- went into
22 disuse, and some people copied me on some email
23 traffic to my personal account and made note of
24 it. And I've since migrated all of that to my
25 work account.

1 Q. Okay. Are these two accounts, the
2 Gmail account and the Yahoo account, still
3 active?

4 A. Uh-huh. Yes.

5 Q. Do you have any other email
6 accounts?

7 A. Yes.

8 Q. What are they?

9 A. S -- s.thomas.martin@gmail.com.

10 Q. And what's your connection to that
11 account?

12 A. It's a -- it was a contemplated
13 pending.

14 Q. That's a currently active account?

15 A. Uh-huh. Yes.

16 Q. Do you have any other email
17 accounts?

18 A. I don't think so.

19 Q. Do you use any text service?

20 A. I didn't hear the --

21 Q. Text. Do you use any text service?
22 Do you text?

23 A. Text?

24 Q. Texting on your phone.

25 A. Oh, okay. Yeah, just Apple and

1 WhatsApp. And whatever the government provides
2 that looks like Apple.

3 THE COURT REPORTER: Whatever the
4 government provides . . .

5 THE WITNESS: I'm sorry. That
6 looks like Apple's app.

7 Q. So you have a text service that's
8 provided by the government that you can use for
9 your work purposes; is that correct?

10 A. Well, so if you look -- if you look
11 at an Apple iPhone, rather than using Apple's
12 email, you use the government's mail through --
13 and I think that texting is just the Apple app.
14 But the contacts don't talk to each other.

15 So out of an abundance of caution
16 I'm just telling you what --

17 Q. Caution's always a good idea.

18 A. -- looks like Apple.

19 Q. All right. Do you use any sort of
20 encrypted text service like Signal?

21 A. I -- I use WhatsApp.

22 Q. So does that mean you do not use
23 anything other than WhatsApp for texting?

24 A. Right. Yes.

25 Q. Okay. And since this is a service

1 provided by the government, would it be fair to
2 say that you use that service for doing business
3 in your position as the director of ORR?

4 A. The Apple, yes, but not the
5 WhatsApp. That's -- I use that in my personal
6 capacity.

7 Q. Okay. All right. All right. I'm
8 going to ask you about -- some few basics about
9 your agency.

10 So you're in the Department of
11 Health and Human Services; is that correct?

12 A. Yes.

13 Q. Okay. Can you just, ballpark, give
14 me a sense of how you fit into the structure --
15 and by "you" I mean the office of refugee
16 resettlement -- into the DHHS structure?

17 A. The office of refugee resettlement
18 is part of the administration for children and
19 families, which is part of the department.

20 Q. All right. So is the 30,000-foot
21 structure the department administrations
22 including ACS, and then offices including your
23 office?

24 A. Uh-huh.

25 Q. Okay.

1 A. Yes.

2 Q. Do you know why it is that ORR is
3 part of HHS?

4 A. Yes.

5 Q. Why is it?

6 A. This was the desire of Congress in
7 the Homeland Security Act.

8 Q. Okay. And do you recall when they
9 moved ORR into HHS?

10 A. 2002 was the statute, but I think
11 it didn't occur 'til 2003.

12 Q. And what's your understanding as to
13 why Congress wanted to move ORR into HHS?

14 A. It had been with INS. INS was
15 disappearing is one part of it. And then the
16 other part of it is because they wanted a child
17 welfare structure for unaccompanied alien
18 children in government custody.

19 Q. All right. And would it be fair to
20 say they wanted a child welfare structure instead
21 of a law enforcement structure?

22 A. Yes.

23 Q. Okay. What do you understand to be
24 the mission of ORR?

25 A. Well, we have three programs. The

1 pro -- the -- for the administration of refugee
2 resettlement program, it's to serve refugees.
3 For unaccompanied alien children program, it's to
4 serve unaccompanied alien children. And for the
5 repatriation program it's to serve repatriated
6 Americans.

7 Q. Okay. With respect to the second,
8 which I'll just refer to as the UC program, if
9 you will, beyond the broad notion of serving
10 children, do you have a more specific sense of
11 what the mission of the agency is with respect to
12 that population?

13 A. Yes.

14 Q. What is that?

15 A. To care for them, pending their
16 release.

17 Q. Can you give me a sense of how ORR
18 is generally structured?

19 A. Yes.

20 Q. Please do.

21 A. We -- well, we have a number of
22 directors who report to me, but the simplest way
23 to put it is that the program is to -- is divided
24 into its main elements. The refugee
25 resettlement. And so the refugee resettlement

1 takes care of that function and not -- typically
2 the UAC function. And there's a deputy director
3 who oversees that and reports to me.

4 And then similarly, with the
5 unaccompanied alien children program, there's
6 a --

7 THE COURT REPORTER: With the?

8 THE WITNESS: -- unaccompanied
9 alien children program.

10 A. -- our deputy director oversees it
11 and reports to me. And with the repatriation
12 program the repatriation specialist reports me as
13 well. And also the URM program unaccompanied
14 refugee minors program. But that sort of sits in
15 the refugee function.

16 Q. All right. So there are these
17 deputy directors that report to you, and I
18 understand they are heading the three separate
19 programmatic areas that you have?

20 A. Uh-huh.

21 Q. Can you continue to describe the
22 way ORR is organized, both in terms of what I
23 understand you refer to as headquarters, in
24 addition to whatever field components you have?

25 A. Sure. So the -- and are we

1 speaking all -- or just unaccompanied alien
2 children?

3 Q. Let's first just talk generally
4 across all the programs.

5 A. Okay. So the repatriation program
6 is really run mostly out of headquarters. The
7 unaccompanied alien children program has field
8 staff. There's federal field staff supervisors
9 who oversee a number of federal field
10 specialists.

11 The refugee program, it's
12 administered through a regional structure that
13 mirrors the ACF region, regional structure.

14 Q. Okay. So with respect to the UC
15 program, let's focus on that now.

16 A. Uh-huh.

17 Q. So there -- you said there are
18 supervisors in the field and they supervise FFSSs;
19 is that correct?

20 A. Yes.

21 Q. Okay. So how many supervisors are
22 there?

23 A. Right now we have five.

24 Q. And are they geographically
25 assigned?

1 A. Yes.

2 Q. What are the geographic areas?

3 A. North -- generally, North --
4 Northeast, South -- or Northeast, Southeast,
5 Southwest, Northwest. I don't have the -- the
6 names of each geographic region committed to
7 memory.

8 Q. Who's the current supervisor for
9 the area that encompasses New York?

10 A. Elcy.

11 Q. That's Elcy Valdez?

12 A. Yes.

13 Q. Does she have supervisory
14 responsibility for areas outside of New York?

15 A. Yes.

16 Q. What are the other areas?

17 A. There are other areas throughout
18 the Northeast and the Mid-Atlantic.

19 Q. Okay. Do you know how many FFSSs
20 she supervises?

21 A. I don't have that committed to
22 memory.

23 Q. Do you have an approximation?

24 A. Between eight and 12.

25 Q. Okay. How many total employees do

1 you have in the UC program?

2 A. 150.

3 Q. And how many of them are in
4 headquarters as opposed to the field?

5 A. I don't know.

6 Q. Do you have an approximate size?

7 A. Not a very good one.

8 Q. Can you just tell me what the
9 step-by-step chain of command is between you and
10 Ms. Valdez.

11 A. Sure. It -- it's me, the deputy
12 director, and then Elcy.

13 Q. Have you had any conversations with
14 Ms. Valdez about this lawsuit?

15 A. No.

16 Q. Have you had any conversations with
17 her about this deposition?

18 A. No.

19 Q. As far as you know, does she know
20 that you're being deposed today?

21 A. I don't know.

22 Q. Who's the current deputy director?

23 A. Jallyn Sualog.

24 Q. Could you spell that, please?

25 A. J-A-L-L-Y-N.

1 Q. And the last name?

2 A. Sualog. S-U-A-L-O-G.

3 Q. And how long has -- I'm sorry, is
4 it a Mr. or Ms.?

5 A. Ms.

6 Q. -- Ms. Sualog been the deputy
7 director?

8 A. She's acting right now. Since
9 March 15th, I believe.

10 Q. And who's her predecessor?

11 A. Jonathan White.

12 Q. And why is Mr. White no longer in
13 that position?

14 A. He left.

15 Q. Did he leave the government?

16 A. No.

17 Q. Where has he gone?

18 A. To another part of the department.

19 Assistant secretary for planning and respon --
20 preparedness and response.

21 Q. And just to be clear, when you say
22 "the department," you're talking about HHS?

23 A. Yes.

24 Q. Okay. What role, if any, did you
25 have in his departure?

1 A. I don't know.

2 Q. Did anyone ever speak to you about
3 him being moved out of his position?

4 A. Jonathan told me that he accepted
5 another position elsewhere.

6 Q. Was that the first you learned of
7 the possibility of him no longer being your
8 deputy?

9 A. Yes.

10 Q. So is it your understanding that
11 he, without talking to you, applied for another
12 position and then accepted it, and then informed
13 you of that?

14 A. Yes.

15 Q. All right. To whom do you report?

16 A. To Steve Wagner.

17 Q. And who is Steve Wagner?

18 A. He's the acting assistant secretary
19 for ACF.

20 Q. All right. How often do you meet
21 with him?

22 A. At least weekly.

23 Q. And do you provide him with any
24 reports?

25 A. Yes.

1 Q. What reports do you provide him?

2 A. At our weekly meeting, we discuss
3 all of the details of -- well, all of the
4 pressing issues in the refugee -- all of the
5 programs that we oversee.

6 Q. When's the last time you met with
7 him?

8 A. I -- I was not able to attend, due
9 to travel, our Tuesday meeting. So last Tuesday.
10 Although I spoke with him on the phone yesterday,
11 I believe.

12 Q. All right. So do you have a
13 regular Tuesday meeting with him?

14 A. Yes.

15 Q. Is that just the two of you or are
16 there other people in that meeting?

17 A. Other people.

18 Q. Who are the other people in that
19 meeting?

20 A. Jallyn usually -- Jallyn and Ken,
21 who's the deputy director for a refugee program.
22 My -- my special assistant. Usually -- sorry,
23 Joann Simmons, our budget director. Amanda
24 Barlow, who is director of OLAB.

25 THE COURT REPORTER: Director of?

1 THE WITNESS: OLAB, O-L-A-B.

2 Office of legislation and budget.

3 A. Brian Marriott, who is our director
4 of communications. Anna Pilato, who is the
5 assistant secretary for public affairs. Mary
6 Powers, who is political adviser for the office
7 of the assistant secretary. And Maggie Wynne
8 usually attends or she sends Andrew Smith, who's
9 her subordinate.

10 Q. And, I'm sorry, who's Ms. Wynne?

11 A. She's counselor for the secretary.

12 Q. For the secretary?

13 A. Yeah.

14 Q. Okay. And is it the standard
15 practice of all these people to attend meetings?

16 A. Yes.

17 Q. The meetings?

18 A. Yeah.

19 Q. I mean, I understand, there will be
20 some meetings where not all of them are
21 necessarily there, but that's the normal group?

22 A. Yeah.

23 Q. All right. How long is the
24 meeting?

25 A. Hour, hour and 15 minutes.

1 Q. And where does it take place?

2 A. In the conference room of the
3 assistant secretary.

4 Q. At this meeting has there ever been
5 a discussion about this lawsuit?

6 A. If so, only the fact of it. I
7 don't -- I don't know is probably the better
8 answer.

9 Q. All right. Fair enough. Let's
10 take another crack at it. As you sit here today,
11 do you recall any time at this meeting this
12 lawsuit being discussed?

13 A. No.

14 Q. Does Mr. Wagner know that you're
15 being deposed?

16 A. Yes.

17 Q. How does he know that?

18 A. Just, you know, in conversation I'd
19 say, "I'm not available Friday. I'm being
20 deposed."

21 Q. Do you have regular dealings with
22 him?

23 A. Yes.

24 Q. Would those be daily dealings at
25 times?

1 A. Up to daily.

2 Q. Are you physically close to him in
3 terms of where your office is?

4 A. Yes. Yes. He's in the floor below
5 me.

6 Q. You mentioned that you were unable
7 to meet with him this week but you had a
8 conversation with him?

9 A. Yes.

10 Q. In that conversation was there any
11 discussion either about this lawsuit or your
12 deposition?

13 A. No. Just to re -- I -- that may
14 have been one of the times I reminded him that
15 I'm in a deposition today.

16 Q. At these regular Tuesday meetings,
17 is there any document that you bring to the
18 meeting or provide in anticipation of the meeting
19 about any aspect of the UC program?

20 A. An agenda for the meeting.

21 Q. Other than that, do you provide, in
22 conjunction with the meeting, any document that
23 talks about any aspect of the UC program?

24 A. Not as a routine matter, no.

25 Q. As a nonroutine matter, what sort

1 of documents have you from time to time provided
2 for purposes of this meeting about the UC
3 program?

4 A. Decision memos on proposed changes
5 and background memos on different aspects of the
6 program.

7 Q. All right. When you talk about
8 decision memos about proposed changes, are you
9 talking about proposed changes in policy?

10 A. Yes.

11 Q. Does it cover other things beyond
12 policy?

13 A. Just operations.

14 Q. And you said background memos.

15 What were you referring to when you
16 were talking about background memos?

17 A. Sometimes it's necessary to
18 describe why something is the way that it is, so
19 we would just prepare a background memo to
20 clarify that.

21 Q. All right. Do you recall, in the
22 time that you've been the director, ever
23 providing a background memo about any aspect of
24 the UC program?

25 A. Yes.

1 Q. What were those memos about?

2 A. Just -- just the fact of them.

3 Q. Okay. Can you recall for any of
4 them the topic of the memo?

5 A. Yeah. I mean, they -- they would
6 fall squarely in the deliberative space.

7 Q. Okay. So I know you're a lawyer.
8 Michael's the one that gets to express the
9 objections. So I'm not asking for the content of
10 them beyond the topic.

11 So can you recall the topic of any
12 of these background memos, to the extent they
13 relate to the UC program?

14 A. Capacity.

15 Q. Okay. Anything else that you
16 recall as a topic?

17 A. Community safety.

18 Q. Anything else?

19 A. No. It's really just different
20 aspects of capacity. Budget.

21 Q. Do you recall at this meeting ever
22 discussing the time it was taking to release
23 children in the UC program from ORR custody?

24 A. No.

25 Q. Have you ever provided, in

1 conjunction with these meetings, any data or
2 other information for how long it's taking for
3 children to be released from ORR custody who are
4 in the UC program?

5 A. Yes.

6 Q. And what was that information or
7 data?

8 A. Just often we quantify in a number
9 of contexts. We -- we quantify overall release,
10 like the average release period or time in
11 cust -- custody.

12 Q. Okay. What's the most recent time
13 you recall providing that type of information in
14 conjunction with this meeting?

15 A. I don't know.

16 Q. Okay. Can you recall any instance,
17 setting aside date, when you provided this sort
18 of information?

19 A. Yes. I don't -- I don't recall the
20 context.

21 Q. Okay. What do you recall, if any,
22 about the form in which the data were presented?

23 A. Usually just a graph.

24 Q. Who prepares that graph?

25 A. We have staff in the UAC program

1 who are able to crunch numbers and things for
2 that.

3 Q. Okay. Can you describe for me, for
4 any particular instance, setting aside the date,
5 what particular types of information were on that
6 graph?

7 A. It -- it would be average -- or
8 average length of stay, probably going back for a
9 few years.

10 Q. And does that graph break out
11 different categories of children who are in
12 custody?

13 A. Yeah. It would be by -- by
14 category of -- of sponsorship.

15 Q. And what do you mean by that?

16 A. We have different categories of
17 sponsor. And when we break that information out
18 we break it out according to sponsor.

19 Q. And so what are the categories you
20 have?

21 A. Category one is sponsorship by
22 parents. Category two is related adult, not
23 parent. Category three is unrelated adult.
24 Category four is no sponsorship prospects.

25 Q. What do you remember about what the

1 average length of stay was, for the time that you
2 recall, setting aside the date again, for each of
3 these four categories?

4 A. I -- I have it in my mind as the
5 overall picture, not category by category.

6 Q. All right. What's the overall
7 picture you have in your mind?

8 A. It's been roughly steady at 45
9 days.

10 Q. And that's 45 days from when to
11 when?

12 A. From referral to release.

13 Q. And when you say "referral," what
14 are you referring to?

15 A. This is when one federal agency,
16 usually is Customs and Border Patrol, sometimes
17 it's ICE, and it could be others, Coast Guard,
18 for example, transfers custody from -- from
19 themselves to us.

20 Q. I see. All right. So that's the
21 period of time between when ORR receives the
22 child, if you will, in custody and ORR releases
23 the child in at least -- well, releases the
24 child?

25 A. Yes. To a sponsor.

1 Q. To a sponsor. So that, by
2 definition, I take it, would involve categories
3 one through three?

4 A. Yes.

5 Q. Okay. All right. And when you say
6 it's held relatively steady at 45 days, over what
7 period of time are we talking about in terms of
8 the holding steady?

9 A. Since coming on.

10 Q. Since your coming on to your
11 position?

12 A. Yes.

13 Q. Okay. Beyond average length of
14 stay, any other data on these graphs?

15 A. No.

16 Q. Okay. And when you say it's a
17 graph, are we talking about like a one page --

18 A. It's a chart.

19 Q. A chart?

20 A. Yeah. It doesn't take up a page.

21 Q. It doesn't even take up a page?

22 A. No. Put it in the middle of the
23 page.

24 Q. All right. Are there other things
25 on the page or that's just it?

1 A. Yeah. What I'm describing is -- is
2 information that we've put in a number of memos
3 and, you know, FOIA requests and media inquiries.
4 So we see that information a lot.

5 Q. All right. Going back again, and
6 we're talking about these meetings that take
7 place every Tuesday, is there any other data that
8 has been presented, even if only once or twice,
9 concerning children in the UC program?

10 A. Yes.

11 Q. What's the other data?

12 A. Well, for example, country of
13 origin is something that we . . .

14 Q. Anything else you can think of?

15 A. Let's see what I can think of. We
16 also -- we produce daily reports about our
17 capacity, the number of beds that we have.

18 Q. And are those sometimes provided in
19 conjunction with this meeting?

20 A. Yes. Every time. How many beds we
21 have. How many are occupied. How many are in
22 each of our categories of beds.

23 Q. Any other data?

24 A. Release trends.

25 Q. And what do you mean by "Release

1 trends"?

2 A. Or, excuse me, referral trends and
3 release trends. These would be the trends of how
4 many UAC have exited our program in a day. And
5 there's trends over a period of time. How many
6 are referred into our program, and those trends
7 over a period of time. Capacity versus --
8 overall capacity versus encumbered capacity and
9 those trends over time, and so on.

10 MR. BYARS: Mr. Dunn, are we at a
11 good point for a break or would that be coming up
12 pretty soon?

13 MR. DUNN: If you'd like to take
14 break, that's fine.

15 THE VIDEOGRAPHER: Going off the
16 record at 10:34.

17 (Recess taken.)

18 THE VIDEOGRAPHER: We are going
19 back on the record at 10:43. This begins disk
20 No. 2.

21 BY MR. DUNN:

22 Q. Mr. Lloyd, you mentioned that at
23 this regular Tuesday meeting your special
24 assistant attends. Who is that person?

25 A. Amanda Dukes.

1 Q. Is she an administrative -- excuse
2 me. Is she a substantive person or an
3 administrative person?

4 A. Administrative.

5 Q. At the meeting do you recall ever
6 having been provided any reports that
7 identifies --

8 A. I -- I should also say there's
9 another special assistant who's on maternity
10 leave, Laura White.

11 THE COURT REPORTER: What's the
12 name?

13 THE WITNESS: Laura White.

14 A. Who is able to -- she -- she does
15 have some substantive knowledge of things.

16 Q. At these meetings do you recall
17 ever having provided, beyond average length of
18 stay, information concerning the duration that
19 children in the UC program have been in ORR
20 custody?

21 A. I don't -- no.

22 Q. Who prepares those graphs that you
23 referred to?

24 A. It's our UAC staff. Usually it's
25 Olympia Belay, B-E-L-A-Y, who is tasked with

1 that.

2 Q. Beyond your meetings with
3 Mr. Wagner, do you have any meetings with people
4 higher up in the hierarchy?

5 A. Yes.

6 Q. And what are those meetings?

7 A. Any number of meetings. Having to
8 do with the refugee or the UAC or the
9 repatriation program. And they could be with a
10 number of personnel depending on the topic.

11 Q. Do you recall any meetings
12 particularly about the issue of how long children
13 are remaining in ORR custody who are in the UC
14 program?

15 A. Not on that specific topic, no.

16 Q. Do you recall any such meetings
17 that have discussed this lawsuit?

18 A. No.

19 Q. Have you had any dealings since you
20 came to your current position with anyone in the
21 White House?

22 A. Yes.

23 Q. And what are those dealings?

24 A. Just various interactions related
25 to the programs we run.

1 Q. Is there someone in particular
2 who's a contact for you there?

3 A. Usually we reach out to -- yes.

4 Q. Who is that person?

5 A. John Zadrozny.

6 THE COURT REPORTER: Spell the last
7 name, please.

8 THE WITNESS: Z-A-D-R-O-Z-N-Y.

9 Q. And what do you understand
10 Mr. Zadrozny's responsibilities to be in the
11 White House?

12 A. He is on the staff of the domestic
13 policy council related to immigration and issues.

14 Q. Have you ever had any conversations
15 with him about the length of time that children
16 are remaining in ORR custody?

17 A. Where that was -- no. Not where
18 that was the focus of the conversation.

19 Q. Well, do you recall any instance
20 where that was a topic of the conversation?

21 A. It was sort of an incidental
22 relating to the background and the operations of
23 the UAC program.

24 Q. And what do you specifically recall
25 discussing with him about the length of time

1 children were remaining in ORR custody?

2 A. Probably just would be included
3 in -- in that graph.

4 Q. How often have you spoken to him?

5 A. I don't know.

6 Q. Can you approximate?

7 A. Yes.

8 Q. Approximately how often?

9 A. Once every month.

10 Q. And do you have a regularly
11 scheduled form of interaction with him, be it a
12 meeting or something else?

13 A. No.

14 Q. Do you from time to time email with
15 him?

16 A. Yes.

17 Q. Have you met with him in person?

18 A. Yes.

19 Q. How recently did you meet with him
20 in person?

21 A. He was at a meeting that I attended
22 on Monday.

23 Q. And what was the subject of that
24 meeting?

25 A. Immigration policy.

1 Q. And what discussion was there, if
2 any, about children in the UC program?

3 A. Capacity.

4 Q. And by "Capacity," do you mean the
5 agency's capacity to have children in its
6 custody?

7 A. Bed capacity to -- for the kids to
8 stay in.

9 Q. All right. And was this
10 particularly in a category of placement? For
11 instance, secure?

12 A. No.

13 Q. Just about capacity in general?

14 A. Yes.

15 Q. Okay. And is the -- well, was
16 the -- more specifically, a discussion about
17 increasing capacity?

18 A. Reporting out on our general
19 situation regarding capacity.

20 Q. And what did you report?

21 A. Our current capacity. And
22 prospects for getting more capacity.

23 Q. And what specific did you report
24 about your current capacity and your prospects
25 for getting more capacity?

1 A. Whatever the numbers were on
2 Monday, and the general possibilities of bringing
3 on more capacity.

4 Q. All right. And is that prompted by
5 a expectation you would have more children coming
6 into ORR custody?

7 A. Yes.

8 Q. Is that an ORR expectation or an
9 expectation from some other place?

10 A. It -- it's an expectation that's
11 widely held among people who are seeing the
12 current referral rates.

13 Q. What is the current number of
14 children who are in ORR custody?

15 A. It's about 8500.

16 Q. And given the referral rates that
17 you're referring to, what is the projection about
18 what's going to happen to that number in the
19 future?

20 A. It's going to continue to climb.

21 Q. And do you know what is driving
22 that climb?

23 A. It's our referral rate over our
24 discharge rate.

25 Q. So is that a function of both your

1 having more referrals and fewer discharges?

2 A. Both fluctuate, but generally
3 there's been more referrals lately. And
4 discharge has been roughly steady with dips
5 recently.

6 Q. And what are the particulars of the
7 dips in the discharge?

8 A. Technol -- technolog -- technology
9 concerns, holidays.

10 Q. What are --

11 A. It ebbs and flows.

12 Q. Right.

13 A. Generally.

14 Q. Do you have a sense of the
15 numerical particulars of the recent dips?

16 A. Well, so our release per 100 UAC in
17 care went from the 1.4 range down to the .7
18 range. This is daily. And then back up to 1.2,
19 1.3.

20 Q. When did it go from 1.4 to .7,
21 approximately?

22 A. Between now and the beginning of
23 the Easter holiday.

24 Q. Easter holiday of last year?

25 A. No. This past Easter holiday.

1 Q. Okay. So is this something you
2 track on a regular basis?

3 A. Every day.

4 Q. Every day?

5 A. Yeah.

6 Q. All right. Do you get a written
7 report about that every day?

8 A. Yup. Yes. With many of the graphs
9 we discuss.

10 Q. All right. Well, we talked about
11 one graph. What other graphs do you get?

12 A. I mentioned all the graphs that I
13 can recall.

14 Q. Well, you mentioned the length of
15 stay graph?

16 A. Uh-huh.

17 Q. The average length of stay?

18 A. It's -- it's different -- well, no.
19 And I also mentioned referrals and discharges and
20 general capacity. All that's put into graph --
21 graph form.

22 Q. I understand. Okay.

23 And who is producing the daily
24 release ratio, if you'll excuse the expression,
25 information that you just mentioned?

1 A. It's our data team in the
2 unaccompanied alien children program.

3 Q. Okay. All right. Other than the
4 issue of meeting more capacity at the meeting on
5 Monday with Mr. Zadrozny, any other aspects of
6 the UC program that you discussed?

7 A. Yes. Potential policy
8 developments.

9 Q. And what are they?

10 A. They -- they remain potential, and
11 I would ask that remains deliberative.

12 MR. BYARS: Are you asking for
13 deliberations, Mr. Dunn?

14 MR. DUNN: I'm just asking for the
15 topics. Just the topic.

16 Q. What's the topic of potential
17 policy developments?

18 A. Again, capacity. And, I don't
19 know, legal processing.

20 Q. And just as a topic, what do you
21 mean by "legal processing"?

22 A. Immigration courts. UAC and
23 immigration courts.

24 Q. Who else was in this meeting?

25 A. There -- there were a lot of

1 people.

2 Q. Okay.

3 A. It was people from the interagency
4 and national security council and domestic policy
5 council.

6 Q. I'm sorry, interagency, domestic
7 policy council. What else did you mention?

8 A. National security council.

9 Q. Approximately how many people were
10 at this meeting?

11 A. 25.

12 Q. And where did the meeting take
13 place?

14 A. Executive office building.

15 Q. Do you recall ever having provided
16 to Mr. Zadrozny any information about the length
17 of time of children remaining in ORR custody?

18 A. I don't recall a specific instance.
19 I'd be surprised if I've not shared generally
20 that information.

21 Q. Have you ever talked to him about
22 this lawsuit?

23 A. No.

24 Q. Anyone else at the White House with
25 whom you've had interactions, other than just

1 administrative things, concerning the UC program?

2 A. Yes.

3 Q. Who was that?

4 A. David Wedmore [ph] is no longer
5 there.

6 Q. What was his position?

7 A. He was -- he was part of the
8 domestic policy council overseeing immigration
9 concern.

10 Q. All right. Anybody else?

11 A. Well, so the original question is
12 all the people that I've met with from the White
13 House concerning --

14 Q. Any aspect of the UC program.

15 A. Zena Bash, who's no longer there.

16 Q. And what was his or her position?

17 A. It's -- it's the same. Oh, no.

18 She was -- I think she was a specialist assistant
19 to Steven Miller.

20 THE COURT REPORTER: A specialist?

21 THE WITNESS: Special assistant or
22 policy adviser.

23 Q. To whom?

24 A. Steven Miller. Steven Miller.

25 Justin Bristow. These are big meetings. There

1 are some people from other departments. So I'm
2 just trying to think if there's anybody else from
3 the White House. Another person from the NSC
4 whose name I can't recall right now.

5 Q. What conversations did you have
6 with Mr. Miller about the UC program?

7 A. Background.

8 Q. Did you have any conversations with
9 him about any aspect of the release of children
10 in the UC program from ORR custody?

11 A. Yes.

Q. What were those conversations?

13 A. How it occurs. Background on
14 release.

15 Q. Beyond information about how it
16 occurs, any conversations you recall with him
17 about release?

18 A. Yeah.

19 Q. What are those?

20 A. Delib -- deliberative policy
21 discussions.

22 (Reporter-initiated discussion off
23 the record.)

Q. All right. So let's just stick to
the topics. I understand the point about

1 privilege. You mentioned as a topic information
2 about the process. What are the topics that
3 you've discussed with him?

4 A. Capacity. And the overall UAC
5 program.

6 Q. Any conversations with him about
7 policies governing release of children from ORR
8 custody?

9 A. Likely.

10 Q. I'm sorry, lately?

11 A. Likely.

12 Q. Likely.

13 A. Yeah.

14 Q. Okay. Do you recall any particular
15 aspect of release policy that you likely
16 discussed with him?

17 A. I don't -- I don't recall right
18 now.

19 Q. Do you recall having spoken with
20 him about your role in release decisions by ORR?

21 A. No.

22 Q. Do you recall having spoken with
23 him about the time it was taking to release
24 children from ORR custody?

25 A. No.

1 Q. Do you recall having conversation
2 with him about any aspect of alleged gang
3 affiliation of children in ORR custody?

4 A. Yes.

5 Q. And I asked you before if you had
6 any conversations with him concerning release
7 policies, and you said likely, and then you said
8 you didn't recall.

9 A. So another topic would be community
10 safety.

11 Q. The discussion you had with him
12 about gang affiliation, was that in conjunction
13 with the preparation of any policy?

14 A. Could you repeat the question?

15 Q. Yes.

16 MR. DUNN: Could you read it back,
17 please.

18 (Record read.)

19 A. No.

20 Q. Okay. So what's the conversation
21 you had with him?

22 A. Deliberative. Well, background.
23 Background about the UAC policy. Background
24 about community safety. Deliberative policy of
25 the session was about the UAC program.

1 Q. All right. Well, I'm going to set
2 aside deliberative policy discussions. You said
3 that the conversation you had with him about
4 gangs was not in conjunction with consideration
5 of policy.

6 So what I'm asking you now is, I'd
7 like you to relate to me, as best you recall, the
8 specifics of the conversation you had with him
9 about gang affiliation allegedly of children in
10 ORR custody.

11 A. Just the background on what we knew
12 about gang affiliation within the UAC program and
13 background about the community safety initiative.

14 Q. Okay. When approximately do you
15 recall that conversation taking place?

16 A. Over the summer.

17 Q. And was that a single conversation?

18 A. No. A couple.

19 Q. And was this in person or by email
20 or both?

21 A. I've -- I've interacted with him a
22 few times by all means. In person and, you know,
23 email, phone, et cetera.

24 Q. All right. Do you recall providing
25 him any documents in conjunction with those

1 conversations?

2 A. To him personally, I don't recall.

3 But I shared with people whom I figured would
4 share with him.

5 Q. And what are the documents?

6 A. Oh, yeah. Yeah. Some background
7 memos related to the things we talked about.

8 Q. Are those documents that you still
9 have?

10 A. Yes.

11 Q. I will just say, going forward, I
12 won't ask -- I won't mention this again, but I
13 would ask that any documents that we discuss
14 today that you still have that you do not in any
15 way discard those documents.

16 A. Fine. That's an easy ask.

17 Q. Okay. That's an easy ask.

18 Is it correct that you started at
19 D -- at HHS in February of last year?

20 A. Yes.

21 Q. All right. And you had a position
22 something like special advisor?

23 A. Yes.

24 Q. And what were your responsibilities
25 in that position?

1 A. Really to begin the political
2 oversight of the office of refugee resettlement
3 and other tasks as requested or required.

4 Q. Who hired you into that position?

5 A. Tim Clark is the White House
6 liaison.

7 Q. And when you say to begin the
8 political oversight of ORR, what do you mean by
9 that?

10 A. Well, there's career staff and
11 there's political staff, and the new
12 administration the political staff was coming in,
13 and they occupy leadership positions. And so we
14 were beginning that process.

15 Q. And when -- is it -- is it fair to
16 say Mr. Clark hired you?

17 A. Yes.

18 Q. Okay. And when you were hired to
19 be the special adviser, did you understand at
20 that time that you'd become the director of ORR?

21 A. Can you repeat the question?

22 (Record read.)

23 A. No.

24 Q. Was the special adviser position
25 something you were recruited for?

1 A. I don't recall.

2 Q. Well, do you remember applying for
3 a position that you just --

4 A. Yeah. Well, I applied and then --
5 and then, you know, I received some questions as
6 to whether I'd be interested in joining the team,
7 and I don't remember which came first.

8 Q. Okay. What specific duties did you
9 have with respect to ORR as the special adviser
10 starting in February of 2017?

11 A. Really it was to begin the process
12 of interacting with career staff and getting
13 briefed up, as the career staff does with new
14 political leadership, on various outstanding
15 issues that greets that leadership.

16 Q. All right. So does that mean that
17 you, for instance, were going in to and
18 personally meeting with ORR career staff, for
19 instance, like Mr. White --

20 A. Yes.

21 Q. -- during that period of time?

22 A. Yes.

23 Q. All right. And would it be fair to
24 say just generally that was for purposes of
25 getting the lay of the land in anticipation of

1 the administration putting in new political
2 people to lead the agency?

3 A. Yes.

4 Q. As part of that work, did you
5 review agency -- and I'm referring to ORR --
6 policies relating to the UC program?

7 A. Yes.

8 Q. And did that include reviewing
9 release policies?

10 A. Yes.

11 Q. And what was the specific review
12 you were doing with respect to release policies?

13 A. Just general background on the
14 operation of the entire program. And -- but one
15 of the outstanding issues that carried into our
16 administration was -- was the expansion of the
17 release policy.

18 Q. And what do you mean by that?

19 A. We added release review -- explicit
20 release review process to our release policy, and
21 a number of other items to -- to the release
22 policy. And that had already -- that process had
23 begun when I came on.

24 Q. All right. So you're referring, I
25 take it, to -- when you say review of releases,

1 you're talking about director review?

2 A. Well, it's director review and then
3 review of the director's review.

4 THE COURT REPORTER: Review of the
5 director?

6 THE WITNESS: Director's review.

7 (Reporter-initiated discussion off
8 the record.)

9 THE COURT REPORTER: Director
10 review and then review of the director's review.

11 THE WITNESS: Yeah. Or I could say
12 appeal. Make it shorter.

13 Q. What's the first conversation you
14 recall having when you were the special adviser
15 about changing or reviewing ORR release policies?

16 A. That would have been part of the
17 initial briefing on the -- the various
18 outstanding issues. So I don't recall the
19 specific conversation where I was briefed --
20 briefed on the pending release review process.

21 Q. Okay. Did someone direct you, when
22 you were the special adviser, to examine the
23 release policies and practices of ORR?

24 A. No.

25 Q. Was that something you did on your

1 own initiative?

2 A. Yes.

3 Q. And who was supervising your work
4 at that time?

5 A. Well, it depends on the time that
6 you're referring to.

7 Q. All right. Well, as I understand
8 it, you started in the special adviser role
9 sometime in February of 2017?

10 A. Yes.

11 Q. You became the director sometime in
12 March of 2017?

13 A. Uh-huh.

14 Q. So I'm talking about in that period
15 of time.

16 A. So upon becoming director, the
17 acting assistant secretary was Amanda Barlow, and
18 I reported to her. She was directing my
19 activity.

20 Q. But, again, I'm talking about
21 before you became director.

22 A. Before --

23 Q. During the time you were the
24 special supervisor and you're doing the political
25 overview --

1 A. Yeah.

2 Q. -- who was directing your work at
3 that time?

4 A. I -- I would say it was probably
5 mostly Maggie Wynne. Tim Clark had a functional
6 component of that.

7 Q. And what was Maggie Wynne's
8 position at that time?

9 A. It was, as it was with all the
10 beachhead team, unclear. Some general name.
11 Policy adviser.

12 Q. All right. Was she a government
13 employee at that time?

14 A. Yes.

15 Q. During the time you were acting as
16 a special adviser, did you receive any particular
17 training orientation about the work of ORR?

18 A. I would use the word "briefing."

19 Q. Okay. All right. So you became
20 the director sometime at the end of March of
21 2017. Do you recall the particular date you
22 became the director?

23 A. The 24th.

24 Q. 24th, okay. And how'd you get that
25 position?

1 A. Well, I applied for a job on the --
2 on the HHS team, and eventually received a call
3 back, and had a series of interviews, and then
4 came on as part of the transition. Was assigned
5 director of office of refugee resettlement. And
6 then there's a process of that becoming final as
7 a matter of HR and -- and everything else.

8 Q. So are you saying that during the
9 time you were the special adviser that you
10 applied to formally become the director of ORR?

11 A. Yeah, in an informal way.

12 Q. All right. So what's the informal
13 way in which you applied?

14 A. It was first floated to me that I'd
15 be the deputy director, and I made it clear that
16 I'd be interested in the director.

17 Q. And with whom did you have that
18 conversation?

19 A. Maggie Wynne and Tim Clark.

20 Q. All right. And would it be fair to
21 say, then, that in the way that these things
22 happen, you were asked to become the director and
23 you became the director?

24 A. Yes.

25 Q. Okay. In your current position do

1 you have authority to hire and fire staff?

2 A. Yes.

3 Q. Which staff do you hire and fire?

4 A. Any staff that comes on subject to
5 rules and regulations, statutes. Labor
6 agreements that surround that, those actions.

7 Q. All right. During your time as a
8 director, have you hired or dismissed anybody?

9 A. Yes.

10 Q. Who did you either hire or dismiss?

11 A. We've had a number of staff that
12 have come on. I mean, you're asking a very broad
13 question that's kind of nuanced. Some people are
14 reassigned to -- to our office, and it wasn't
15 really a hiring process.

16 Some would have completed the
17 hiring process and finally completed after me
18 coming on. Some are contractors where it's the
19 contracting agency that actually does the hiring
20 and we're bringing on the contract position.

21 So was the question how many or
22 who?

23 Q. It was who, but let's set that
24 aside for a moment.

25 A. Sure.

1 Q. With respect to the deputy
2 directors who report directly to you --

3 A. Yes.

4 Q. -- are those positions that you are
5 free to fill yourself?

6 A. Yes.

7 Q. And did you replace any of the
8 deputy directors when you assumed responsibility
9 in March of 2017?

10 A. No.

11 Q. Other than Mr. White, has any of
12 the other deputy directors changed in your time
13 in the director position?

14 A. No.

15 Q. What responsibility, if -- if any,
16 do you have for reviewing cases of individual
17 children who are in ORR custody? And I am not
18 limiting this to the UC program.

19 A. Could you repeat the question?

20 (Record read.)

21 A. I review substances into the
22 unaccompanied refugee minor program. And also in
23 certain circumstances I review the release or --
24 yeah, the release decisions for the unaccompanied
25 alien children program.

1 (Reporter-initiated discussion off
2 the record.)

3 Q. Any other individual decisions you
4 review or in fact make with respect to children
5 in ORR custody?

6 A. Significant medical procedures.

7 Q. And what --

8 A. This is me personally?

9 Q. You personally.

10 A. Okay.

11 Q. What significant medical procedures
12 do you personally review or make?

13 A. Any of them that require anesthesia
14 or surgery.

15 Q. Any other categories of medical
16 procedures?

17 A. NO.

18 Q. Do you make any decisions
19 concerning medications for children in custody?

20 A. No.

21 Q. Other than URM acceptances, some
22 releases in the UC program, and significant
23 medical procedures, are there any other types of
24 individual situations that you personally review
25 and decide with respect to children in UC -- in

1 ORR custody?

2 A. No.

3 Q. With respect to the URM
4 acceptances, during the time --

5 A. If I could, there's one question of
6 medication that I was asked to review, but it was
7 an unsolicited request. And I deferred to the
8 medical -- the medical coordinator of the
9 program. And that was covered in my last
10 deposition.

11 Q. All right. And just so we're clear
12 about this, when you say your last deposition,
13 you're talking about the deposition concerning
14 your role in abortion decision making?

15 A. Yes.

16 Q. That was in December of last year?

17 A. Yes. Or it would have been the
18 same -- same round, but different -- one of those
19 two depositions.

20 Q. Okay. Do you play any personal
21 role in decisions within the UC program to
22 transfer children from one type of placement to
23 another?

24 A. Not on a routine basis.

25 Q. All right. So let's go back to the

1 URM acceptances. Approximately how many times
2 have you personally reviewed those individual
3 acceptances during your tenure?

4 A. It would be hundreds. It would be
5 several a week.

6 Q. And how much time, as a general
7 rule, do you have to spend for each of those
8 cases?

9 A. Five minutes, 10 minutes.

10 Q. With respect to the medical
11 procedures, how many of those cases would you say
12 you've reviewed during your tenure?

13 A. It's similar to the URM program.

14 Q. Okay. And how much time, as a
15 general matter, are you spending on those cases?

16 A. Five to 10 minutes.

17 Q. The issue about medication, you
18 said there was one unsolicited request. I just
19 want to get it correct. So you've gotten it that
20 one time. Not part of a standard practice.
21 Someone sent it to you.

22 And, as I understand your
23 testimony, you essentially deferred to the field
24 staff on that?

25 A. Yes.

1 Q. Okay. And then you said with
2 respect to step-ups or step-downs, to use your
3 vernacular, I said placement changes, you said
4 not on a routine basis?

5 A. Yes.

6 Q. How often have you reviewed
7 specific decisions about placement decisions
8 during your tenure?

9 A. I can't recall a specific instance.
10 However, I'd be surprised if this is the type of
11 thing that hasn't come up to me once or twice
12 because of some exigent circumstance.

13 Q. All right. So I take it, as you
14 sit here today, at least, you don't have any
15 recollection of a particular instance in which
16 you've done this; is that correct?

17 A. Yes.

18 Q. All right. And then with respect
19 to, and we'll talk about this more, of course,
20 but with the release decisions for some children
21 in the UC program, how many times have you done
22 that during your tenure where you've reviewed a
23 case?

24 A. Dozens, I would say.

25 Q. And how much time, as a general

1 matter, are you -- have you been spending on
2 those individual reviews?

3 A. It depends. They're typically more
4 complex than a medical procedure which, with
5 regard to medical procedures, are usually some
6 degree of routine. But the release decisions
7 that come up to me are the ones that are by
8 definition not routine release decisions.

9 So there have been some that are --
10 we've spent more than an hour on, and some that I
11 would say generally about a half an hour to an
12 hour.

13 Q. All right. We'll come back to
14 that.

15 Other than your regular Tuesday
16 meeting, do you have other regularly scheduled
17 meetings during your week?

18 A. Yes.

19 Q. Don't we all. All right.

20 How much -- how many hours do you
21 have of regularly scheduled meetings during a
22 typical week?

23 A. Six to eight.

24 Q. And in a typical week, how many
25 hours end up getting consumed with meetings that

1 are not regularly scheduled but just arise in the
2 normal course of affairs?

3 A. Another 12.

4 Q. Do you ever visit the field?

5 A. Yes.

6 Q. How often do you do that?

7 A. We try to go once a month. That's
8 a rule of thumb.

9 Q. Beyond meetings that are taking
10 place, are there other regular commitments you
11 have during your work week that require
12 substantial time?

13 A. Yeah. Writing, responding to
14 emails. Preparing background memos and things of
15 that sort, yeah.

16 Q. How many hours a week, as a general
17 matter, would you say those sorts of
18 responsibilities are required?

19 A. Another 20 to 30 to 40.

20 Q. You mentioned that at this point
21 you believe there are about 8500 children in your
22 custody?

23 A. Yes.

24 Q. How many children came into ORR
25 custody in 2017, if you know? And I'm asking

1 calendar year, if you know.

2 A. Oh, calendar year? We just had it
3 by fiscal year.

6 Q. And what's the number for the most
7 recent fiscal year?

8 A. It was 41,000. In that
9 neighborhood.

10 Q. Okay. So just so I understand,
11 that's October 1 through September 30, 2016, to
12 2017?

13 A. Yes.

14 Q. Okay. And that's your 2017 fiscal
15 year?

16 A. Yes.

17 Q. All right. Do you know what the
18 comparable number was for 2016?

A. 59,000 and change.

Q. And do you know about 2015?

21 A. 33,000 and change.

22 Q. Okay. You have on your website an
23 annual report for 2015. At least on the website
24 there are not any more recent annual reports.

25 Are there more recent annual

1 reports that you know of?

2 A. To the -- the annual report to
3 Congress?

4 Q. Yes.

5 A. It's in clearance.

6 Q. It's in clearance. Okay. So
7 there's 20' -- is 2016 coming?

8 A. Yes.

9 Q. You mentioned -- well, let me back
10 up.

11 I understand you were in New York
12 earlier this week?

13 A. Yes.

14 Q. You spoke at the U.N.?

15 A. Yes.

16 Q. All right. You said at that event
17 that in December 2016, as I recall, that the
18 agency had 12,000 children in custody?

19 A. Yes.

20 Q. Do you recall that?

21 A. Yes.

22 Q. All right. Is that an accurate
23 number?

24 A. Yes.

25 Q. All right. And we have seen a

1 document that indicates that in June of 2017 the
2 total number of children in ORR UC program was
3 2400. Are you familiar with that number?

4 A. That sounds right. Sounds a little
5 low, but . . .

6 Q. And just to be clear, the 12,000
7 number that you mentioned at the U.N. panel, that
8 was children in the UC program; correct?

9 A. Yes.

10 Q. All right. So do you have a sense
11 as to how we went from or you went from 12,000 in
12 December 2016 to somewhere around 2400 in June of
13 2017 to 8500 now?

14 A. Yes.

15 Q. What's your understanding of that?

16 A. There is an -- it was a historic
17 drop in referrals that lasted, if memory serves,
18 probably until about June. It was accompanied by
19 a historic high rate of discharges for an
20 extended period, and I don't remember how long
21 that occurred. But the main driver was the
22 different referrals compared to a relatively
23 steady or high rate of discharge.

24 Q. All right. And that is during the,
25 if you will, December of 2016 to approximately

1 June 2017 period you're talking about?

2 A. Yes.

3 Q. All right. And did those trends
4 then reverse afterwards?

5 A. Yes. The referrals started to pick
6 up. And the discharges, going to various
7 variables, that -- that fluctuates somewhere
8 between 1.2, 1.7 per 100 kids per day.

9 Q. All right. Do you know how many
10 children are in ORR custody in New York as of
11 now?

12 A. I don't have that committed to
13 memory.

14 Q. Do you get state-specific reports
15 from time to time about the number of kids in
16 custody?

17 A. We get reports of beds, and that --
18 that would be at hand, if -- if needed.

19 Q. Since the filing of this lawsuit,
20 which was February 16th of this year, do you know
21 of any changes in the number of children who have
22 been moved to New York to be placed in ORR
23 facilities there?

24 A. No.

25 Q. Do you know of any directives,

1 written or otherwise, concerning the movement of
2 children into New York since the filing of this
3 lawsuit?

4 A. No.

5 Q. If there were such a directive, do
6 you think you would know about it?

7 A. Yes.

8 Q. In terms of children coming into
9 ORR custody, you mentioned that they typically
10 come from other agencies. And I think you
11 mentioned particularly DHS and perhaps sometimes
12 the Coast Guard?

13 A. Yeah.

14 Q. Do the other ones come in from
15 other agencies?

16 A. Not typically.

17 Q. And at least in terms of -- in
18 terms of releases, as I understand it, these
19 children can be released and reunified with a
20 sponsor or placed with a sponsor. Some children
21 will age out. Some children will take voluntary
22 departure?

23 A. Yes.

24 Q. Are there other ways in which
25 children leave ORR custody?

1 A. Well, sometimes the sponsor is a
2 long time -- long-term foster care.

3 Q. Okay. So would you consider that
4 to be, at least the way I'm talking about,
5 continuing in ORR custody?

6 A. No. That would -- that would be a
7 release.

8 Q. That would be a release?

9 A. Yeah. And those tend to be our
10 category four kids.

11 Q. Uh-huh. Okay. So other than
12 release, age out, voluntary departure, are there
13 any other ways that children leave ORR custody?

14 A. No.

15 Q. Do you have a sense, of the time
16 that you have been the director of the
17 distribution of children leaving ORR custody
18 between those various categories, mainly
19 reunification, age outs, or voluntary departure?

20 A. Oh. It's the -- mostly your
21 reunification, by -- by a wide margin. But more
22 specific than that, I would say at least
23 60 percent. But what are expected to be higher.
24 That's a conservative estimate.

25 Q. And do you have any sense of the

1 percentages of age outs or voluntary departures?

2 A. That would be small. That would --

3 I would expect that to be less than 10 per --

4 10 percent.

5 Q. And have those small percentages

6 changed in any meaningful way over the course of

7 your tenure?

8 A. I don't know.

9 Q. Is that something you get reporting

10 about, in terms of the way people -- children are

11 leaving your custody?

12 A. Not regularly.

13 Q. You get it from time to time?

14 A. Yes.

15 Q. All right. In terms of the most

16 recent report that you got, setting aside when

17 you got it, what's your recollection about the

18 distribution of children leaving custody in these

19 different categories?

20 A. That's my best recollection of

21 that.

22 Q. At least 60 percent, less than

23 10 percent, less than 10 percent?

24 A. Yeah. The age outs would be a -- a

25 larger category than voluntary departure.

1 Q. And the age outs are then -- in
2 that situation, they're transferred to ICE; is
3 that correct?

4 A. Yes.

5 Q. All right. With respect to your
6 placement types, is it fair to say that you have
7 as placement types secure, staff secure, shelter,
8 foster care, and therapeutic?

9 A. Yes.

10 Q. All right. So that's -- those five
11 categories. Can you just give me a thumbnail
12 sketch of what you consider to be the essential
13 characteristics of each of those five categories?

14 A. Well, therapeutic would be an
15 instance where there's a physical or mental
16 condition that requires special care.

17 Long-term foster is -- is where,
18 you know, you have sponsorship prospects from one
19 of the family.

20 Secure is where there's been --
21 where there's a danger to one's self or to
22 others.

23 Staff secure is where there's some
24 sort of misbehavior. It could be along the lines
25 of danger to self or others, but tends to be more

1 flight risk.

2 And shelter would be the vast
3 majority of our population where there's not a --
4 a concern over safety to one's self or to others,
5 or a flight risk.

6 Q. For the 8500 children who are
7 currently in custody, what's your best estimate
8 of either the numbers or percentages of your
9 population are each -- in each of these five
10 placement types?

11 A. Long-term foster, I'd have to ask
12 somebody. And the same with therapeutic.

13 In secure, I believe the last time
14 I checked there is a -- it was in the high 60s.

15 And staff secure that -- that would
16 be between one and 200, and then the rest would
17 be shelter.

18 Q. And when you say "one to 200," is
19 that a figure -- that's your best recollection of
20 what the figure is, or is that a capacity figure?

21 A. It's -- it's one or the other.

22 It's one or the other, yeah.

23 Q. Okay. What's your understanding of
24 what your shelter capacity is -- excuse me, your
25 secured capacity?

1 A. 8 -- 89, I believe.

2 Q. And your staff secure?

3 A. My guess would be like 190, but I
4 would have to check.

5 Q. Okay. What are the various ways in
6 which a child in ORR custody would end up in a
7 secure placement?

8 A. Assaulting another UAC or a staff
9 member. Establishing a pattern of violent
10 behavior. Gang affiliation.

11 Q. Anything else?

12 A. I think in most instances where
13 there's an attempt at an escape they would be in
14 staff secure, rather than secure. If there was
15 attempts at escape accompanied by violent or
16 disruptive behavior, it could be in -- in secure.

17 Q. Of the current high 60s number of
18 kids who are in secure placement as of now,
19 what's your best sense of the extent to which
20 they are in for any of the four different reasons
21 that you mentioned?

22 A. I think they're all in for those
23 reasons.

24 Q. Sorry. I meant the distribution.

25 A. Oh. I see. The distribution?

1 Q. Uh-huh.

2 A. Most -- most all of them would
3 be -- so -- so we have violent and disruptive
4 behavior. There -- that's -- that's the story of
5 secure.

6 Q. That's most of them?

7 A. Yeah.

8 Q. Okay. And I understand what you're
9 saying about attempt to escape, if paired with
10 perhaps violent and disruptive behavior, would
11 also get you in secure?

12 A. Yeah. I'm not -- I'm not aware of
13 a situation where an escape attempt alone would
14 wind somebody up in secure, unless it was --
15 somebody had tried every day to escape, for
16 example. But that is speculative.

17 Q. And then -- so then what that
18 leaves us is gang affiliation. How many of the
19 people are we talking of the 60 might be in that
20 category?

21 A. Probably five to 10, number-wise.

22 Q. And --

23 A. If that.

24 Q. If that, okay. And in terms of
25 this distribution, is this typical of the

1 distribution of kids in secured during your
2 tenure?

3 A. Yes.

4 Q. Is this something you get a regular
5 report about, in terms of the characteristics of
6 kids in secure?

7 A. No.

8 Q. What sort of reporting do you get,
9 if any, about the number of kids who are in
10 secure or staff secure placements?

11 A. It's just as needed, and as it
12 comes up in various conversations.

13 Q. Is that information, though, the
14 agency regularly has available to it?

15 A. Yeah. It would be available
16 roughly whenever we needed it.

17 Q. Since the time you have been the
18 director, can you estimate how many children in
19 ORR custody have been in secure placement?

20 A. If I were to venture a guess, and I
21 think it would be a bad guess.

22 Q. All right. We don't want you to
23 make a bad guess, but I would like you to make an
24 estimate as best you can, to the extent that you
25 can.

1 A. I would say 300.

2 Q. And then in terms of staff secure
3 what would be your best estimate?

4 A. 600.

5 Q. And do you happen to know when you
6 became the director how many kids at that time
7 were in either staff secure or secure?

8 A. It -- the numbers have held steady
9 since me coming on, according to my recollection.

10 Q. Okay. So, for instance, to the
11 extent that your estimate today is high 60s for
12 secure, and 100 to 200 for staff secure, your
13 sense is it would have been about the same
14 numbers in March of 2017?

15 A. Can you repeat the numbers?

16 Q. I think you had said that as of now
17 you estimated that the number of kids in secure
18 was the high 60s, and the number of kids in staff
19 secure was 100 to 200.

20 A. Okay.

21 Q. So assuming I have that right, and
22 assuming that you're saying you think the numbers
23 have held over time --

24 A. Sure.

25 Q. -- would it be fair to say it's

1 your sense, as you sit here today, that when you
2 became the director that those were the types of
3 numbers of kids who were in either secure or
4 staff secure at that time?

5 MR. BYARS: Object to the form.

6 You may answer.

7 A. That's specul -- specul -- okay. I
8 think that's -- that's roughly right. However,
9 you know, there -- there was the change that
10 we're aware of that gang affiliation would result
11 in initial secure placement, which may have
12 increased the number of -- of people in our
13 secure placement slightly, but more than
14 20 percent I'd be surprised.

15 Q. Okay. With respect to moving kids
16 from facility to facility, is that something that
17 ORR does on a regular basis?

18 A. Yes.

19 Q. All right. And does ORR also, as a
20 regular basis, move children around to different
21 parts of the country?

22 A. Yes.

23 Q. Is that something you have pretty
24 much complete control over?

25 A. Yeah. Yes.

1 Q. What regular interactions does ORR
2 have with law enforcement personnel, either
3 federal or local?

4 A. We -- well, at initial referral
5 it's usually from a law enforcement from CDP or
6 ICE. And at the -- at release ORR reports the
7 details of the release, to UAC and the sponsor,
8 to the local ICE field staff, FOJC, field office
9 juvenile coordinator.

10 THE WITNESS: Field office juvenile
11 coordinator.

12 THE COURT REPORTER: Coordinator.

13 Q. All right. So you're having at
14 least contact with them when the child comes into
15 your custody. You're saying you provide them
16 notification upon release. Beyond that, what
17 sort of interactions does the agency have with
18 law enforcement?

19 A. Well, that's on a case-by-case
20 basis. So if a kid commits a crime while in --
21 in our care, then we would have interaction with
22 law enforcement at that point. If there's been
23 an escape attempt -- attempt or leave or
24 information, or if law enforcement learns
25 information about gang affiliation or crimes

1 committed, then there would be interaction at
2 that point.

3 And we've also, as part of
4 community safety engagement, we've -- we're
5 beginning the process of bringing law enforcement
6 into -- into our shelters and -- and -- well,
7 into our shelters in order to give gang -- gang
8 resistance training, which is -- which is
9 administered by a law enforcement officer.

10 (Reporter-initiated discussion off
11 the record.)

12 A. It's called the GREAT program,
13 which is similar to the DARE program, but if you
14 ask me what GREAT stands for, I draw a blank.

15 Q. Okay. I'm sorry --

16 (Reporter-initiated discussion off
17 the record.)

18 A. G-R-E-A-T. Gang resistance. I
19 don't know.

20 Q. Do you yourself have any ongoing
21 interactions with any law enforcement agencies in
22 New York?

23 A. In New York. I wouldn't describe
24 them as ongoing. I've had discussions with law
25 enforcement entities in New York.

1 Q. What are the entities?

2 A. Personnel.

3 Q. So what are the entities or

4 personnel you've had discussions with?

5 A. I've had discussions with Suffolk
6 County Commissioner's office.

7 Q. And what is --

8 A. The police commissioner's office.

9 Q. The police commissioner's office.

10 And what were those discussions?

11 A. To discuss the nexus or -- yeah, I
12 guess you could say nexus, between gang suspects
13 that they had in custody and the UAC program.

14 Q. Did those discussions include any
15 discussions about release of children in ORR
16 custody?

17 A. More -- more along the -- well,
18 yeah. I think so.

19 Q. And what were the particulars of
20 that discussion?

21 A. It would be providing -- it would
22 be general background about what -- what they see
23 regarding release of unaccompanied alien children
24 into their community, and then us providing
25 background about our release processes and

1 sponsorship processes.

2 MR. BYARS: Would now be a good
3 time for another break, Mr. Dunn?

4 MR. DUNN: I'm happy to take
5 another break, if this is the time you would
6 break. How are we doing on time? What time is
7 it?

8 MR. BYARS: It's about 10 of 12.

9 Why don't we just take a couple of minutes.

10 MR. DUNN: Sure.

11 THE VIDEOGRAPHER: Going off the
12 record at 11:49.

13 (Recess taken.)

14 (Luncheon recess: 11:48 a.m.)

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A F T E R N O O N S E S S I O N

2 (1:04 p.m.)

3 EDWARD SCOTT LLOYD,

4 having been previously sworn, resumed the
5 stand and testified further as follows:

6 THE VIDEOGRAPHER: We are going
7 back on record at 1:05. This begins disk No. 3.

EXAMINATION (Cont'd.) BY

9 COUNSEL FOR PLAINTIFFS/PETITIONERS

10 BY MR. DUNN:

11 Q. Mr. Lloyd, I want to go back and
12 ask you a couple of quick things.

13 A. Uh-huh.

14 Q. You said that you might, in a
15 couple instances, have been involved with a
16 individual case involving a placement decision?

17 A. Yes.

18 Q. Let me ask you this: Are any of
19 those decisions being elevated to headquarters
20 and being reviewed by somebody else?

21 A. So there's a couple of questions
22 there. Can I start with the first part?

Q. Sure.

24 A. Is it being -- I wouldn't use the
25 term "elevated." Much or most of what we do in

1 the agency we copy, if it's an email, for
2 visibility purposes, personnel at the department,
3 and usually -- usually that's Maggie Wynne
4 because she has jurisdiction over our issues.

5 And then so do we elevate and
6 review, I think if we could -- I'd like to answer
7 the question yes.

8 Q. Okay. So what I'm trying to get at
9 is, I understood from your testimony, but correct
10 me if I'm wrong, that you do not personally,
11 except for perhaps one or two instances you don't
12 remember, review and make decisions about
13 displacement movements of children in the UC
14 program; is that correct?

15 A. Typically, I am not involved in
16 that.

17 Q. Okay.

18 A. It's only in the rare instance
19 where I'm involved in placement and movement,
20 transfer.

21 Q. Is anybody else in the headquarters
22 staff involved with the review and decision
23 making about step-ups or step-downs?

24 A. Not in a typical matter. Unless
25 there's some complication in a case, this is the

1 federal field staff that makes the decision.

2 Q. And during your tenure as
3 director -- and how many instances as a general
4 matter are you aware of in those unusual
5 circumstances headquarters staff being involved
6 in deciding about placement decisions?

7 A. In those rare instances?

8 Q. Yes.

9 A. A handful.

10 Q. Okay.

11 A. Less than five.

12 Q. Okay. With respect to the
13 distribution of outcomes of people leaving ORR
14 custody, you said that at least 60 percent were
15 being released?

16 A. Yes.

17 Q. Were you including in that movement
18 of children to long-term foster care?

19 A. No.

20 Q. All right. So is that what I would
21 describe as reunification with a sponsor?

22 A. Long-term foster care, is that --

23 Q. No, the 60 percent?

24 A. Oh. Yes, yes.

25 Q. All right. And when you estimated

1 8500 children are currently in ORR custody, that
2 includes or excludes long-term foster care?

3 A. That includes. That includes all
4 levels.

5 Q. And what would be your estimate, if
6 you have one, of how many children are in
7 long-term foster care?

8 A. 40.

9 Q. 40 total?

10 A. Yes.

11 Q. Long-term foster care?

12 A. Yes.

13 Q. You talked about tracking on, I
14 think you said, a daily basis their release rate.
15 And you mentioned ranges from .7 percent to
16 1.4 percent.

17 What was the release rate at the
18 time you became the director in March of 2017?

19 A. I don't remember.

20 Q. Do you have any recollection of
21 release rates at any point in time during the
22 spring of 2017?

23 A. No. I -- I -- just that it was
24 generally slightly higher.

25 Q. And slightly higher than what is a

1 typical rate? Is that what you mean by that?

2 A. Yeah. We started out the year
3 with -- with a -- yeah, somewhat higher than the
4 typical rate. I think our typical rate is, at
5 least since I've been looking at it, 1.4 to 1.5.
6 We started out with maybe some -- somewhere more
7 like 1.6.

8 Q. And you're talking about the
9 beginning of 2017?

10 A. Yes.

11 Q. Okay. Within the agency, within
12 ORR, how many political appointees are there who
13 had responsibility for the UC program?

14 A. Three.

15 Q. And who are those three?

16 A. It's myself, Pedro Moreno, and Kim,
17 Kimberley Womack.

18 Q. And who are the second two?

19 A. Pedro Moreno is the principal
20 deputy director, and Kimberley Womack is a policy
21 adviser.

22 Q. Is she a policy adviser to you?

23 A. Yes. They both report directly to
24 me.

25 Q. You mentioned, as I understood it,

1 that there were five supervisory FFSSs in the
2 agency?

3 A. Yes.

4 Q. Have any of the five of them -- are
5 any of the five current supervisors new to that
6 position since you became the director?

7 A. No.

8 Q. Okay. So, to be clear, when you
9 came in in March of 2017, the five incumbent
10 supervisory FFSSs were in those positions?

11 A. Yes.

12 Q. Does the agency have any reports
13 that you know of that report on the duration of
14 children in ORR custody who are or have been in
15 secure or staff secure?

16 A. There are no regular reports. If
17 somebody asks for that information, we could get
18 it.

19 Q. All right. So I take it by that,
20 you mean, but just confirm it, you have data from
21 which those reports could be compiled, but those
22 reports are not compiled as of now?

23 A. Correct.

24 Q. Okay. And who's got -- is that
25 data that's in the possession of ORR?

1 A. Yes.

2 Q. Okay. And you have staff here in
3 headquarters who use that data from time to time
4 to produce reports?

5 A. Yes.

6 Q. All right. If you were going to
7 ask somebody to compile that information, who
8 would be the person you would ask?

9 A. I would ask Jallyn Sualog, who
10 would ask Olympia Belay.

11 (Reporter-initiated discussion off
12 the record.)

13 Q. Does the agency produce reports of
14 kids who are in ORR custody who are or have been
15 in secure or staff secure and that have been in
16 custody for more than a particular point in time,
17 for instance, like more than six months?

18 A. I don't know.

19 Q. Okay. Have you ever seen a report
20 that's a list of kids who have been in custody
21 and who either are or were in staff secure for
22 any specified period of time?

23 A. No.

24 Q. Is that the sort of information
25 that could be pulled from the data set that you

1 have?

2 A. Yes.

3 Q. Independent of any reports, do you,
4 as you sit here today, know anything about the
5 length of custody of children who are currently
6 in your custody and who are or have been in
7 secure or staff secure places?

8 A. Yes.

9 Q. Okay. What's the information you
10 have about that length of custody?

11 A. Just generally, that it tends to be
12 longer than our shelter placements.

13 Q. Okay. You, I think mentioned
14 before, that length of custody generally have
15 been relatively stable around 45 days over your
16 tenure.

17 Do you recall that?

18 A. Yes.

19 Q. All right. Was that for all
20 children in the UC program?

21 A. Yes.

22 Q. Okay. What's your understanding,
23 if you have one, about a comparable number of
24 days that children have remained in custody
25 during your tenure who are or have been in other

1 secure or staff secure?

2 THE WITNESS: Could you repeat the
3 question?

4 (Record read.)

5 A. It would be a guess.

6 Q. I don't want you to guess. Do you
7 have any estimate of that?

8 A. Yeah. It would be an estimate, and
9 I think it would be about 60 days.

10 Q. To your knowledge, has that figure
11 changed in any significant way during the course
12 of your tenure?

13 A. No.

14 Q. Does the agency make an effort to
15 determine whether or not a child in its custody
16 in the UC program has any connection to gang
17 activity?

18 A. Yes.

19 Q. And what specifically does the
20 agency do to determine that or to ascertain that?

21 A. They -- it examines the
22 documentation that accompanies the placement at
23 custody. And it -- because of its ability to
24 observe the clinical process, because the
25 clinical process is part of the program that we

1 oversee, if that -- if indications of gang
2 activity arise, then we receive that information
3 and act upon it.

4 Q. All right. And when you're saying
5 "clinical activity," you're talking about social
6 work provided by provider agencies, for instance?

7 A. Yes.

8 Q. All right. And you're saying that,
9 if during the course of that work, they learn of
10 something they consider to be gang related,
11 that's information that would be conveyed to ORR?

12 A. Yes.

13 Q. All right. Why does the agency
14 have an interest in whether or not there is
15 possible gang affiliation, for lack of a more
16 precise term at the moment, for a child in its
17 custody?

18 A. It could be an indication of
19 dangerousness.

20 Q. Does the agency have itself a
21 protocol for determining whether or not there is
22 in fact possible gang involvement by a child in
23 its custody?

24 A. That's a case-by-case
25 determination.

1 Q. But in making that case-by-case
2 determination, does the agency have a specific
3 protocol or tool that it uses case by case to
4 determine whether or not a child may have gang
5 involvement?

6 A. No.

7 Q. Does it have any written policies
8 for directives that are provided to its staff or
9 providers that specifies what the standards are
10 for determining if a child is somehow gang
11 connected?

12 A. There is -- there is a distinction
13 made in our policy between current gang
14 affiliation and past gang affiliation. That's
15 one of the things that we look at in making that
16 determination.

17 Q. Okay. What I'm trying to you
18 understand is, setting aside whether it's current
19 or past, what standards or criteria the agency
20 uses to conclude that a child is or was gang
21 affiliated?

22 A. It's a case-by-case determination
23 made by the program in concert with the federal
24 field staff.

25 Q. And do you know of any written

1 standards that govern that case-by-case
2 determination?

3 A. No.

4 Q. And if there were such standards
5 would you know of them?

6 A. Yes.

7 Q. Do you know if there are any
8 particular staff in ORR who have been specially
9 trained to identify characteristics of someone
10 who may be involved with a gang?

11 A. Yes.

12 Q. Who are the staff?

13 A. The -- there are some that I know
14 have had the training, and there are some who've
15 had the training, and I don't know who was at the
16 training.

17 Q. Okay. Is there an understood
18 single form of training that's available to
19 staff?

20 A. We've had a number of engagements
21 with law enforcement and Department of Justice
22 to-- to give federal staff the opportunity to
23 learn more about gangs and be trained in -- in
24 gang awareness. What are the indicators of gang
25 affiliation.

1 Q. Do you have any idea how many of
2 your 150 employees involved with the UC program
3 have been to that training?

4 A. No, I don't know how many.

5 Q. Do you have particular categories
6 or labels that you use, in terms of thinking
7 about someone who may be gang involved? For
8 instance, you say who is currently a gang member?
9 I mean, is "gang member" a term that the agency
10 defines and uses for certain purposes?

11 A. No. The -- no.

12 Q. Okay. Is there any other -- you
13 mentioned gang affiliated. Is "gang affiliation"
14 or "gang affiliated" a term the agency uses?

15 A. It's term the agency uses.

16 Q. All right. And what does -- what
17 is the definition of that term in the way the
18 agency uses it?

19 A. It's a term that the agency uses
20 and is not defined in any -- anything written.

21 (Reporter-initiated discussion off
22 the record.)

23 Q. What's your understanding of the
24 substance of the term "gang affiliated," as the
25 agency uses it?

1 A. The people who have received
2 training in gang affiliation explained it to me
3 as it being a spectrum where at one end of the
4 spectrum there would be impressed low-level
5 service, and at the other end of the spectrum
6 would be willful, highly violent gang-affiliated
7 behavior.

8 Q. Other than "gang affiliated," is
9 there a term the agency uses to describe a
10 child's gang involvement?

11 A. "Member of a gang."

12 Q. "Member of a gang," okay. So how
13 is "member of a gang" different than being gang
14 affiliated, for purposes of the agency's work?

15 A. I don't think there is any
16 functional difference.

17 Q. All right. So it would be fair to
18 say that "member of a gang" is at the far end of
19 the spectrum, if you will, of "gang affiliated"?

20 A. Yes.

21 Q. Okay. So other than "gang
22 affiliated," are there any other terms the agency
23 uses to describe or characterize gang involvement
24 by a child in its custody?

25 A. No.

1 Q. If the agency identifies a child
2 who's being gang affiliated, what effect, if any,
3 does that have on release decisions by the
4 agency?

5 A. That would be -- if they have been
6 identified as affiliated with a gang, then that
7 becomes a release decision that has to be
8 reviewed by me.

9 Q. Okay. Is there a written policy
10 that states that?

11 A. Yes.

12 Q. And where is that policy, if you
13 know?

14 A. In our policy guide.

15 Q. In the policy guide.

16 Do you know what section of the
17 policy guide?

18 A. 12.7, I believe. But I could be
19 wrong.

20 Q. I'm not going to hold you to that.
21 We'll come back to it.

22 Does being gang affiliated, in the
23 eyes of the agency, have any effect on placement
24 decisions of children in ORR custody?

25 MR. BYARS: Object. Are you asking

1 as a 30(b)(6) witness or are you asking for his
2 understanding?

3 MR. DUNN: His understanding.

4 A. Okay. Could you repeat the
5 question?

6 MR. DUNN: Can you read it back,
7 please.

8 (Record read.)

9 A. Yes.

10 Q. And what's the effect?

11 A. Gang affiliation will result in a
12 secure placement. Review of the placement
13 decision in a secure setting is a more accurate
14 way of putting it.

15 Q. Review of a placement decision in a
16 secure setting. Could you explain what you mean
17 by that?

18 A. There's an initial placement in
19 secure while a review occurs of the allegation of
20 gang affiliation.

21 Q. Okay. And does that placement in
22 secure facility follow, if the child is anywhere
23 on what you described as the spectrum of gang
24 affiliation?

25 A. Yes.

1 Q. All right. And would this result
2 of placement in a secure placement apply both if
3 there's information the agency gets when the
4 child originally comes into ORR custody, and if
5 there is a child already in ORR custody and
6 information surfaces about the child?

7 A. Yes.

8 Q. Do you know, in the time that
9 you've been the director, how many children
10 have -- excuse me -- been identified as gang
11 affiliated such that they have been subject to
12 this placement practice?

13 A. No.

14 Q. Do you know how many children,
15 since you have been ORR director, have been
16 elevated to you for review on their release by
17 virtue of a finding of gang affiliation?

18 A. No.

19 Q. With respect to the release
20 decisions, do you have any estimate of how many
21 have come to you?

22 A. Yes.

23 Q. What's your estimate?

24 A. Dozens.

25 Q. Okay. When I asked you earlier

1 about the number of release decisions that had
2 come to you during your tenure, you said dozens.

3 And in terms of this particular
4 issue about release decisions being elevated to
5 you for gang affiliation specifically, you're
6 saying dozens?

7 A. Uh-huh.

8 Q. Are there cases that you're getting
9 to review that -- for purposes of release that
10 are not gang-affiliated cases?

11 A. Yes.

12 Q. Okay. How many nongang-affiliated
13 cases are coming to you for release review?

14 A. At least half.

15 Q. At least half of the cases that you
16 get?

17 A. Yes.

18 Q. Okay. So you've got dozens of gang
19 ones. You've got dozens of total cases. Let's
20 try to be a little more specific.

21 Your best estimate, in the year
22 that you've been the ORR director, how many cases
23 have come to you either for -- for release
24 review, regardless of whether they are gang
25 affiliated or not?

1 A. I'd say between 100 and 120, doing
2 the math.

3 Q. Okay. Did something happen during
4 the lunch break that gave you a little clearer
5 recollection of how many cases you might have
6 reviewed?

7 A. No. I just did the math right now
8 in my head.

9 Q. Okay. Fair enough.

10 A. Two a week and multiplied by 52.

11 Q. Okay. We'll come back to that.

12 And based upon what you know about
13 children in custody in the review process in the
14 agency, do you have any sense of how often a
15 child who is originally identified as being gang
16 affiliated turns out not to be gang affiliated
17 once the agency reviews it?

18 A. I would say that's rare.

19 Q. All right. Starting with -- with
20 cases where there's information about gang
21 affiliation when you assume custody of a child,
22 what is the agency doing to ascertain the
23 validity of information that's coming from
24 another agency?

25 A. Speaking with the agency that made

1 the referral or provided the information is a
2 better way to say it, and then speaking with the
3 child in a clinical setting.

4 Q. And, as I understand it, there's no
5 instrument or protocol that's being used to -- in
6 part -- as part of this review process; is that
7 correct?

8 A. That's correct. There are
9 recidivism tools that we use in some cases but
10 that doesn't speak directly to gang affiliation.
11 I should also mention that we contact family
12 members.

13 Q. And setting aside the protocol, is
14 there a particular document that agency staff are
15 using to investigate whether or not information
16 that is received upon initial placement with the
17 agency concerning gang affiliation is accurate or
18 valid?

19 A. There is not a written protocol.
20 There's a -- there's a -- a program-wide
21 understanding.

22 Q. What I'm asking is, even beyond the
23 protocol. Is there a form? Is there a piece of
24 paper that's uniformly used to --

25 A. No.

1 Q. -- record information about your
2 assessment of alleged gang affiliation?

3 A. No. Not for gang affiliation.

4 Q. With respect to suspected gang
5 affiliation that surfaces after the child is in
6 your custody, what is the process for
7 investigating whether or not that is accurate and
8 valid?

9 A. Check with the relevant law
10 enforcement entity that's back in country through
11 Interpol, or if it's in this country. And then
12 follow up with others who may have information,
13 but usually that's -- that's family. I don't
14 think we extend beyond family.

15 Q. And with respect to that process,
16 namely, reviewing gang allegations that surface
17 for a child who's in your custody, is it correct
18 there's no agency protocol for doing that?

19 A. There's no written agency protocol.
20 There's a program-wide understanding.

21 Q. Is it also correct there's no
22 specific form that the kids use for purposes of
23 that review process?

24 A. In the gang review process, yes,
25 there is no specific form.

1 Q. As we sit here today, do you have a
2 sense of the percentage of children, or the
3 number, who are in your custody now through the
4 UC program who the agency believes are gang
5 affiliated?

6 A. The best estimate we have at any
7 one time is between one and one and a half
8 percent of the kids who go through our program.

9 Q. Okay. Has that been a pretty
10 stable number during your tenure?

11 A. That is the best informed
12 hypotheses of -- of the various people working
13 with kids in the program.

14 Q. Do you get any reports from time to
15 time that lists or enumerates the number of
16 children the agency believes are gang affiliated?

17 A. No.

18 Q. Are you aware of a survey that took
19 place in June of last year that attempted to
20 identify the number of kids who are gang
21 affiliated?

22 A. That rings a bell.

23 Q. Okay. What do you remember about
24 that survey?

25 A. In the context of either our

1 discussions with Commissioner Sini or -- Sini,
2 S-I-N-I -- or preparation for a hearing, we
3 made -- I believe we made a request to find out
4 how many are suspected of gang affiliation.

5 Q. And you made a request of whom?

6 A. Our -- I would have asked Jonathan
7 White, who would have tracked it down.

8 Q. Okay.

9 (Lloyd Exhibit Number 2, 8/16/17

10 AC&F information memo regarding community
11 safety initiative for the UAC program,
12 four pages, marked for identification as
13 of this date.)

14 Q. Mr. Lloyd, I'm showing you what's
15 been marked as Lloyd Exhibit No. 2. This is a
16 ACF memo dated August 16, 2017.

17 Is this a document you have seen
18 before?

19 A. Yes.

20 Q. All right. Let me direct your
21 attention to the second page of it. And in the
22 "Discussion" section on that page, could you take
23 a moment and just look at that paragraph.

24 A. Okay.

25 Q. Is this the survey that you recall

1 having happened?

2 A. Yes.

3 Q. Okay. As far as you know, are the
4 results of the survey as reported on this
5 document accurate?

6 A. Yes. It's an accurate reflection
7 of the survey we did.

8 Q. And what were these survey results
9 used for?

10 A. Per our understanding and per the
11 understanding of others.

12 Q. Who were the others you're
13 referring to?

14 A. Interagency partners and the public
15 necessary. Or where appropriate, I guess I would
16 say better.

17 Q. There's been mention before about
18 the TVPRA?

19 A. Yes.

20 Q. Are you familiar with that statute?

21 A. Yes.

22 Q. All right. Are you familiar with
23 the provision in the statue that requires the
24 prompt placement of children in the least
25 restrictive placement, consistent with their best

1 interests?

2 A. Yes. Very familiar.

3 Q. Do you understand that obligation
4 to apply to the agency?

5 A. Yes.

6 Q. All right. Do you understand that
7 obligation to apply to the placement of children
8 with sponsors?

9 A. Yes.

10 Q. And you also understand that
11 obligation to apply when it comes to placing
12 children in different types of settings inside of
13 ORR, namely, secure versus staff secure, for
14 instance?

15 A. Yes.

16 Q. Does the agency have any particular
17 system for tracking its compliance with that
18 obligation?

19 A. The system of tracking our
20 compliance is everything that we do. That's the
21 entire framework of the program.

22 Q. I understand that or I accept that.

23 But what I'm asking you is, is
24 there a particular system designed for the
25 express purpose of monitoring compliance with

1 this provision of the TVPRA?

2 A. Could you define "system"?

3 Q. Anything that you have.

4 A. The program has visibility into
5 every release decision that we make. And all
6 those decisions are made on the basis of our
7 obligations under TVPRA, Homeland Security Act,
8 and the Flores settlement.

9 Q. Well, I understand that. What I'm
10 asking you, though, is, does the agency have any
11 system that is specifically designed for the
12 purpose of assessing compliance with the mandate
13 of the TVPRA of prompt placements in the
14 least-restrictive setting in the best interest of
15 the child?

16 A. And my answer to that question is
17 that the program complies with those statutory
18 obligations. The program itself is the system
19 for complying with those obligations.

20 Q. All right. When you say the
21 program complies with it, on what basis do you
22 draw that conclusion?

23 A. My interaction with the staff. My
24 review of releases. And my understanding of the
25 interaction of the policy staff with -- with the

1 program.

2 Q. All right. Anything more specific
3 than that?

4 A. I think that covers everything.

5 Q. Do you get any reports at any time
6 that expressly attempt to measure compliance with
7 this particular mandate of the TVPRA?

8 A. Report, no. Apart from an
9 individual who makes a decision, because it's an
10 individualized determination.

11 MR. DUNN: Can you mark that as 3.

12 (Lloyd Exhibit Number 3, 2/15/18

13 USDHS publication entitled:

14 Unaccompanied Alien Children and Family
15 Units Are Flooding the Border Because of
16 Catch and Release Loopholes, four pages,
17 marked for identification as of this
18 date.)

19 Q. Mr. Lloyd, I'm showing you an
20 exhibit that's been marked as Lloyd Exhibit 3,
21 which is a release from the Department of
22 Homeland Security dated February 15, 2018,
23 concerning, amongst other things, a TVPRA.

24 Is this a document you've seen
25 before?

1 A. No.

2 Q. All right. Are you aware that DHS
3 issued release in February 2018 concerning,
4 amongst other things, the TVPRA?

5 A. I'm generally aware.

6 Q. Okay. Before this was released,
7 were you aware that it was going to be released?

8 A. No.

9 Q. Did you have any input into this
10 release?

11 A. No.

12 Q. How did you learn of it?

13 A. I didn't. I never learned of this
14 particular release. I've learned of statements
15 in the media by different people in, I'll call
16 them other agen -- interagency partners that have
17 similar information.

18 Q. Do you, as the head of ORR, have
19 concerns that children who are in the UC program
20 have too many legal protections?

21 A. I don't approach the question that
22 way.

23 Q. Well, let me ask the question
24 again, though.

25 Do you, as the head of ORR, have

1 concerns that children in the UC program have too
2 many legal protections?

3 A. As the director of ORR, I just
4 implement the legal protections.

5 Q. You, at your U.N. presentation
6 earlier this week, talked about the agency
7 considering the legal framework involving
8 children in its custody. What were you referring
9 to when you said that?

10 A. The procedural -- the procedures by
11 which UAC weaves through the iteration process.

12 Q. Could you be more specific?

13 A. No. Not at this time. It's
14 deliberative.

15 Q. Well, does any part of the
16 statement you made at the U.N. pertain to the
17 particular obligation at TVP -- at TVPRA that
18 we've been discussing?

19 A. No.

20 Q. Beyond the TVPRA, do you understand
21 there to be any other legal obligations the
22 agency has that bear on other release or
23 replacement decisions? And I'm going to set
24 aside the Flores settlement.

25 Beyond Flores, are you aware of any

1 other legal obligations that bear on release or
2 placement decisions?

3 A. Yes.

4 Q. What's are those obligations?

5 A. Homeland Security Act, the U.S.
6 Constitution.

7 Q. And what's your understanding about
8 the U.S. Constitutional obligations that bear on
9 placements or releases?

10 A. That Congress writes the laws and
11 the administration then administers them.

12 Q. Okay. That sounds like a
13 separation of powers issue.

14 Do you understand the U.S.
15 Constitution to impose upon your agency any
16 substantive obligations when it comes to either
17 releasing or placing children?

18 A. Not directly.

19 Q. What indirect obligations do you
20 think it may pose?

21 A. The statutes and the court cases
22 that -- that guide our program.

23 Q. Okay. You mentioned that you
24 review certain of these decisions.

25 MR. DUNN: Mark that, please.

(Lloyd Exhibit Number 4, HHS online policy guide, bearing Bates Numbers HHS000001 through HHS000003, marked for identification as of this date.)

Q. All right. Mr. Lloyd, we've given you what's been marked as Lloyd Exhibit No. 4, which is a document produced to us in discovery bearing Bates stamp pages 1 through 3.

Is this a document you recognize?

A. Yes.

Q. What is this?

A. This is our policy guide, online policy guide.

Q. And you mentioned earlier a policy guide section that you believe specified your involvement in release decisions involving gang members. Is this the policy section you were referring to?

A. I believe so.

Q. Okay. So let me direct your attention to at least the last paragraph of this section 2.7.

Do you see that?

A. The last paragraph on this page?

Q. Yes.

1 A. 2.7.

2 Q. Yes. 2.7.

3 A. Page 3?

4 Q. Just 2.7.

5 A. Oh, I see.

6 Q. At the top section.

7 A. Okay.

8 Q. Am I -- is it correct to say that
9 section 2.7 is a policy guide section that
10 provides the standards for release of children in
11 UC -- in the program?

12 A. Yes.

13 Q. And I want to focus your attention
14 at the end of that section 2.7, which talks about
15 elevation of release decisions to the ORR
16 director.

17 Do you see that?

18 A. Yes.

19 Q. Okay. Is there a new requirement,
20 namely, the elevation, that was put in place when
21 you became the director last year?

22 A. Yes.

23 Q. Okay. This section says "The ORR
24 Director or designee makes release decisions for
25 children in these types of facilities."

1 Have you designated anyone else to
2 make these decisions?

3 A. The deputy director.

4 Q. Okay. And from time to time has
5 the deputy director made decisions without you
6 having to make the final decision?

7 A. Yes.

8 Q. Okay. Do you have any idea how
9 many such cases there are?

10 A. No.

11 Q. All right. When you talked about
12 having between 100 and I think you said 120 cases
13 that you had reviewed --

14 A. Yes.

15 Q. -- are those only the cases that
16 you personally reviewed and made the decision on?

17 A. Yes. There's a -- the answer to
18 the question is I reviewed.

19 Q. All right. So, to the extent that
20 a deputy director separately made decisions,
21 those would be on top of that 100 to 114?

22 A. It could be.

23 Q. It could be?

24 A. Right.

25 Q. Has the deputy director had

1 authority to make placement decisions -- excuse
2 me -- release decisions throughout your tenure?

3 A. I believe so.

4 Q. Has the deputy director had
5 authority to make release decisions as your
6 designee for any particular category of cases?

7 A. Yeah.

8 Q. What's that category?

9 A. That's what -- it's -- it's less
10 complicated cases having less to do with violence
11 and more to do with lower forms of misbehavior
12 and/or escape attempts.

13 Q. All right. So the deputy director
14 has had responsibility for cases that involve
15 lower forms of misbehavior and escape attempts;
16 is that correct?

17 A. Yes.

18 Q. Is there anything in writing that
19 spells out which cases you're reviewing versus
20 which cases the deputy is reviewing?

21 A. No. I trust the deputy's judgment.

22 Q. So how was that distinction between
23 the cases you're getting and that he or she is
24 looking at conveyed to the deputy?

25 A. In a conversation.

1 Q. All right. And is that a
2 face-to-face conversation?

3 A. Yes.

4 Q. To your knowledge, is there
5 anything in writing that spells out that --

6 A. No.

7 Q. -- distinction? And so I take it
8 for most of the time it was Mr. White who was
9 handling those cases?

10 A. Yes.

11 Q. And was he the one who would decide
12 whether or not a particular case was one for him
13 to review, as well as there being one for you to
14 review?

15 A. According to the framework we
16 discussed, yes.

17 Q. And is that true with his
18 successor?

19 A. Yes.

20 Q. And is she reviewing cases, as far
21 as you know?

22 A. Yes.

23 Q. Okay. And when Mr. White was
24 reviewing cases and he made a decision, would you
25 even learn of that decision?

1 A. Not necessarily.

2 Q. Have you ever seen a report that
3 lists cases that he alone has reviewed and the
4 outcomes of those reviews?

5 A. No.

6 Q. What was the reason why the new
7 director-level review of release decisions was
8 implemented in March of 2017?

9 A. There are a number of reasons. So
10 I can't boil it down to just one. One was in
11 order to gain visibility into the release
12 decisions of the most difficult cases.

13 The other is to gain accountability
14 for the release decisions within a program. And
15 the program that I run. So that if something
16 went wrong, then I wouldn't -- there wouldn't be
17 the appearance that it wasn't something that I
18 didn't own personally. And so it's -- it was in
19 an effort to gain account -- accountability for
20 myself and visibility.

21 Q. Any other reasons that you recall
22 for the institution of this director-level
23 review?

24 A. Well, there were a number of
25 highly -- high-profile cases involving UACs that

1 were making the news right around the time that I
2 joined the program. And that visibility and
3 accountability I think served to put the program
4 on -- on notice of how we're going to approach
5 the most dangerous or the potentially most
6 dangerous releases.

7 Q. Can you tell me -- you said there
8 are a number of high-profile cases. What were
9 those cases?

10 A. There -- there are, like I said, a
11 number of them. And some of the details run
12 together.

13 Q. Okay. Do you remember any of the
14 details?

15 A. Well, one -- one is -- was
16 internally high profile because it involved
17 litigation surrounding a former gang member and
18 the details of his story were fresh in mind.

19 Another were the alleged accounts
20 of rape in Montgomery County by UACs that were
21 later determined to be false allegations. And
22 there were some other instances, if memory
23 serves, in Fairfax County, Virginia of violence
24 incidents, and we were able to look into whether
25 there had been -- they had been involved in the

1 UAC program and confirm it.

2 Q. And what came of that?

3 A. The community safety policy.

4 Q. Okay. But what -- what came of the
5 incidents in Fairfax County, as far as you --

6 A. Oh, I don't recall.

7 Q. Okay.

8 A. Arrests and allegations surrounding
9 gang violence.

10 Q. All right. Who made the decision
11 to institute this director-level review?

12 A. I did.

13 Q. And did you make that in
14 consultation with anyone outside the agency?

15 A. No.

16 Q. Had you had --

17 A. Sorry.

18 Q. Go ahead.

19 A. I answered the question for the
20 department. I consulted within the agency and
21 the department, HHS.

22 Q. And when you say "HHS," who
23 specifically are you referring to?

24 A. I -- as a matter of course, I would
25 have reported on -- on the development of the

1 policy to Steve Wagner and Maggie Wynne.

2 Q. Was this policy your idea?

3 A. Yes.

4 Q. Had you considered instituting this
5 policy while you were the special adviser before
6 becoming the director?

7 A. No.

8 Q. Other than Mr. Wagner and
9 Ms. Wynne, did you have any conversations with
10 anyone else in government outside of ORR about
11 the creation of this new review?

12 A. No.

13 Q. Did you have any conversations with
14 anyone in the White House about this new review?

15 A. Before? After?

16 Q. Before.

17 A. No.

18 Q. Did anyone from the White House say
19 to you in sum and substance, there's a problem
20 arising from these incidents. You need to start
21 thinking about reviewing cases?

22 A. No.

23 Q. Did anyone other than Ms. Wagner
24 and Ms. Wynne have a conversation like that with
25 you?

1 A. No.

2 Q. Were there any documents that you
3 reviewed in deciding to institute this policy?

4 A. Just news reports.

5 Q. And regarding these reports of
6 these -- at least these two incidents, namely,
7 the one in Montgomery County and the one in
8 Fairfax County?

9 A. Yeah. We -- the agency ACF,
10 receives media clips every day. And they were --
11 they were among these media clips.

12 Q. And I'm sorry if I missed this.
13 The Fairfax County incident, did that involve
14 people who allegedly were gang involved?

15 A. Yes.

16 Q. Was your primary concern in
17 instituting this policy a concern about release
18 of gang members into the community?

19 A. In one of the -- one of the primary
20 concerns.

21 Q. What would be another primary
22 concern?

23 A. The safety of the UAC themselves.
24 The other UACs in custody with them.

25 Q. All right. Is that going to the

1 issue of placements as opposed to release?

2 A. Mostly.

3 Q. All right. So in terms of at least
4 instituting the policy of your or your designee
5 personally reviewing and approving releases, is
6 it correct that your primary concern in
7 developing that review was the concern about gang
8 members being release into the community?

9 A. Well, people who are potentially a
10 danger to others being released into the
11 community. Often gang members are a subset.

12 Q. All right. You said earlier that
13 the gang member concern was a primary concern.

14 Are you suggesting that there are
15 other forms of danger that were as much of a
16 concern as the gang concern when it comes to
17 safety?

18 A. Yes.

19 Q. Okay. What are those -- those
20 other categories?

21 A. General violence not related to a
22 gang.

23 Q. Okay. When you adopted the policy,
24 did you know -- have any episodes of
25 nongang-related violence perpetrated by someone

1 released from the UC program?

2 A. I don't know.

3 Q. Okay. We know that the two
4 incidents, at least as you recall as sit here
5 today, were both gang incidents; is that correct?

6 A. Yes.

7 Q. All right. With respect to -- can
8 we go back to 2.7 for a moment.

9 A. Yes.

10 Q. I just want to make sure I
11 understand exactly what this applies to.

12 So is it correct that -- setting
13 aside the language just for the moment -- that
14 under this policy any child in ORR custody in the
15 UC program who is or has been in a secure or
16 staff secure placement at any time cannot be
17 released unless you or your designee personally
18 approve the release?

19 A. Yes. That's correct.

20 (Lloyd Exhibit Number 5, 3/14/17
21 UCPolicy(ACF) email, bearing Bates
22 Number HHS000015, marked for
23 identification as of this date.)

24 Q. All right. Mr. Lloyd, I'm showing
25 you a document that's been produced to us in

1 discovery. It's Bates stamped H15. It is a
2 March 24, 2017, email at 1:24 p.m. It appears to
3 be an email coming from ORR announcing a new
4 policy of release reviews.

5 A. Okay.

6 Q. Is this an email you've seen
7 before?

8 A. I don't think I have seen it.

9 Q. Let me direct your attention to the
10 highlighted text near the top. I don't know
11 who's highlighting this is, but it reads "Federal
12 Field Specialists may not approve a release from
13 a secure or staff secure facility until they
14 receive notification from Jonathan to approve the
15 release."

16 This could be construed to talk
17 about placement changes, as opposed to releases
18 to a sponsor. And I just want to make sure I
19 understand again that 2.7, as you understand it,
20 concerning your review is a release decision to a
21 sponsor, for instance, as opposed to movements
22 amongst placements; is that correct?

23 A. Yes. That's correct.

24 Q. Okay. All right.

25 A. And I am not typically involved in

1 the transfer process.

2 Q. What is the reason why you chose to
3 have your review or the review of your designee
4 for all children who are or had been in either a
5 secure or staff secure placement?

6 A. What was my reason for instituting
7 the policy?

8 Q. With respect to that particular
9 population.

10 A. As opposed to other populations.

11 It's again visibility and
12 accountability over the release of those who
13 could be or are potentially the most dangerous
14 elements of our program, individuals in our
15 program.

16 Q. Well, for instance, let's just take
17 children who at some point were in staff secure
18 who might now be in shelter.

19 A. Uh-huh.

20 Q. Do you have any reason to think
21 that some significant percentage of them would
22 present a current danger?

23 A. Of staff secure?

24 Q. People who are in shelter who had
25 been in staff secure.

1 A. In shelter. A significant -- could
2 be a danger. If they're a danger, they're not
3 going to be released.

4 Q. Okay. I'm just trying to
5 understand, for instance, kids who are currently
6 in secure, presuming they are kids who the agency
7 has determined right now present the greatest
8 issues.

9 A. Correct.

10 Q. But there are on the spectrum kids
11 who were in staff secure sometime ago and now
12 step down to the shelter, one can say are at the
13 other -- are at the other end of the spectrum?

14 A. Yes.

15 Q. So what is it about, for instance,
16 kids who are in shelter who had been in staff
17 secure at some point in the past but have been
18 stepped down, why in your mind is it appropriate
19 for them to be subject to director-level review?

20 A. Well, they've done something that
21 warranted step-up into staff secure.

22 Q. When you instituted the policy, did
23 you make any effort to assess the characteristics
24 of the population at that time who had been in
25 staff secure or secure placements?

1 A. The character of the population?
2 Q. The characteristics of them?
3 A. Characteristics. No.
4 Q. Okay. What information, if any,
5 did you have about children in ORR custody at the
6 time you adopted the policy who had been either
7 in secure or staff secure placements?

8 A. Well, that there were those among
9 our shelter population who had been in secure,
10 staff secure, and who had been stepped down.

11 Q. Would it be fair to say that's the
12 sum total of what you knew about that population?

13 A. Which population?

14 Q. The children who, at the time you
15 adopted the policy, had been either in staff
16 secure or secure.

17 A. Yes.

18 Q. Did you make, in conjunction with
19 the adoption of that policy in March of last
20 year, any effort to determine the number of
21 children who were going to be covered by the
22 policy?

23 A. We had a general idea already from
24 information we had gleaned for other purposes.

25 Q. Okay. What was your general sense

1 of how many people would be subject to the
2 policy?

3 A. Well, it's -- it's -- it was driven
4 by the numbers that we -- we already knew were in
5 the secure and staff secure pop -- populations.

6 Q. All right. That would tell you how
7 many people were in secure or staff secure, but
8 would not tell you how many people had been?

9 A. Right.

10 Q. Did you have any reasonable
11 estimate or make -- put it this way: What effort
12 did you make, if any, to estimate the number of
13 people that would be subject to the policy when
14 you instituted it?

15 A. We didn't make an effort.

16 Q. Okay. Are there any written
17 criteria that govern your review or the review of
18 your designee with respect to this population of
19 kids when you were assessing whether or not they
20 should be released?

21 A. Written criterion is in our
22 statute: Dangerous to one's self or to the
23 community.

24 Q. All right. So that's -- that's the
25 criterion that you're using for your review?

1 A. Yes.

2 Q. Okay. Any other criterion that
3 you're using?

4 A. Any other criteria that are outside
5 our statute would be inappropriate.

6 Q. Well, you have a policy guide that
7 has lots of information in it. But is it fair to
8 say that the primary thing you're looking at when
9 you review a case is dangerousness?

10 A. Yes.

11 O. Okay.

12 (Lloyd Exhibit Number 6, AC&F
13 publication regarding FAQ:ORR Director's
14 Release Decision, bearing Bates
15 Numbers HHS000006 and HHS000007, marked
16 for identification as of this date.)

17 Q. All right. Mr. Lloyd, I'm showing
18 you a document that's been produced in discovery.
19 It's Bates stamped pages 6 and 7. And it is
20 labeled "Division of Policy and Procedures
21 FAO:ORR Director's Release Decision."

22 Is this a document you've seen
23 before?

24 A. Yes.

25 O. Do you know when this document was

1 issued?

2 A. No.

3 Q. Let me direct your attention to the
4 very end of the document. So there's a question
5 and an answer?

6 A. Yes.

7 Q. And you'll see it reads in part,
8 "The ORR director assesses each case individually
9 under the same ORR release policies used to
10 approve or deny a release to a sponsor found in
11 the ORR Policy Guide, section 2.7"?

12 A. Yes.

13 Q. Do you understand this question and
14 answer to be a statement that you are applying
15 2.7, or the standards in 2.7 to make release
16 decisions?

17 A. Yes.

18 Q. So let's go back to 2.7, which is
19 in the exhibit you already have.

20 When you are making a release
21 decision, do you sit there and use section 2.7 in
22 assessing that decision? Because it has a number
23 of criteria in it.

24 A. I don't have 2.7 out in front of me
25 when I make the release decision.

1 Q. Okay. Is there anything that's in
2 the Exhibit No. 6 that we just showed you, that
3 FAQ that's not dated, in that language that is
4 inconsistent with your -- what you understand to
5 be a practice when you review release decisions?

6 A. No. Except that it could say -- it
7 could say "or the director or his designee
8 assesses," but then it references 2.7, which
9 provides clarity.

10 Q. When you are assessing safety or
11 dangerousness, are you working from an assessment
12 that comes from someone in the field or are you
13 assessing it anew?

14 A. Yes. I am -- I'm working from a
15 recommendation from the field. And also the
16 deputy makes a recommendation as well.

17 Q. Okay. So we'll come back to that.
18 I want to make sure I'm -- it's clear about the
19 policies here.

20 Are there any timelines that you
21 know of that govern your review process?

22 A. As soon as possible.

23 Q. Okay. Is there anything in writing
24 that you know of that constitutes a required
25 timeline for you to complete your review process?

1 A. No. Apart from -- without
2 unnecessary delay under our statute.

3 Q. Namely, the requirement of a prompt
4 placement? Is that what you're referring to?

5 A. At least without unnecessary delay.

6 Q. Okay. But in terms of beyond
7 whatever's in the statute, you don't know of
8 anything in writing that prescribes a time period
9 during which you have to complete your review?

10 A. No. It's a individualized
11 assessment each time.

12 Q. Well, I understand that. But
13 you're saying you don't know of any written
14 requirement that there -- your assessment be
15 completed within a specified period of time?

16 A. No. A written standard would cut
17 against the individualized nature of the
18 exercise.

19 Q. Okay. Let me direct your attention
20 in section 2.7, the -- your policy guide.

21 A. Yes.

22 Q. Go to 2.7.7, which is a section
23 labeled "Notification of Denial."

24 A. Yes.

25 Q. Are you familiar with that section?

1 A. Yes.

2 Q. Okay. The first sentence of that
3 section, if you could just read it to yourself.

4 A. Of 2.7.7?

5 Q. Uh-huh.

6 A. "If the ORR Director denies
7 reunifica" -- to myself? I'm sorry.

8 Q. I said to yourself. You can read
9 it out loud for the record. That's fine.

10 A. ". . . the reunification
11 application of an unaccompanied alien child's
12 parent or legal guardian, the ORR Director
13 notifies the parent/legal guardian by sending a
14 denial letter to the parent/legal guardian within
15 30 business days of receiving all the required
16 information and documentation in a specified
17 [specific] case."

18 Q. Okay. Do you -- having seen this
19 now, is this a timeline that requires you to
20 complete your review within 30 business days of
21 receiving all the information for the case?

22 A. Yes.

23 Q. All right. So were you unaware of
24 this when you answered the question before?

25 A. No. I had -- it doesn't -- it

1 rarely gets anywhere near 30 business days.

2 Q. Okay. So with respect to the
3 triggering of this, when it says "of receiving
4 all the required information," what does that
5 refer to, as you understand it?

6 A. The -- the -- all of the
7 information that's a part of the sponsor, family
8 reunification packet.

9 Q. And that's receipt by whom or by
10 what?

11 A. That would be by the program and
12 case manager.

13 Q. That's somebody in the field?

14 A. Yes.

15 Q. Okay. So you're saying that the
16 30-day business day clock in this section starts
17 running when that information is provided to the
18 case manager in the field.

19 How does the agency keep track of
20 the 30 business days that start running upon
21 receipt of that information?

22 A. At the -- in -- in the field level.

23 Q. Do you know how they actually do
24 it?

25 A. Upon -- they begin counting

1 business days upon receiving all of the
2 information.

3 Q. But do you know how they track
4 compliance with this?

5 A. Well, it becomes part of the UAC's
6 record that all of the information is received,
7 and then they're able to count 30 business days.

8 Q. Okay. Do you know of any system
9 that's in place within ORR to track compliance
10 with this 30-business-day requirement?

11 A. This is it. The policy.

12 Q. Well, I understand it's a mandate.
13 What I'm asking you is, in terms of compliance
14 with the mandate, do you know of any system
15 that's in place by which the agency actually
16 monitors and tracks compliance with the mandate?

17 A. No. I don't think that -- that the
18 agency goes out of the mandate.

19 Q. I'm not asking if you go out of it.
20 I'm asking if you have any way to measure
21 compliance with it.

22 A. Denials to parent and legal
23 guardian are very rare. And so therefore it's
24 such a case-by-case basis that those who are
25 handling the case are well aware of how far into

1 the 30 business days they are.

2 Q. Is it your understanding this
3 30-day clock only applies if a release is denied?

4 A. Yes.

5 Q. All right. So do you know of any
6 comparable, and I don't mean 30-business-day
7 comparable, but at any timeframe that governs the
8 period of time in which the agency has to decide
9 to approve a release?

10 A. Without unnecessary delay.

11 Q. Well, I understand that notion,
12 which you previously said comes from the legal
13 statute.

14 A. It's a legal mandate. It's not a
15 notion.

16 Q. All right. The legal mandate of
17 the statute?

18 A. Yes.

19 Q. All right. Beyond what the statute
20 provides, is there any agency policy that you
21 know of that prescribes a specific period of time
22 in which approvals of release must be made?

23 A. My understanding is that the
24 statute is the policy.

25 Q. Do you know of any written policy

1 of the agency that includes such a specific
2 timeline?

3 A. The timeline is without unnecessary
4 delay.

5 Q. Mr. Lloyd, I don't want to burn up
6 a lot of time here, but I'm asking a very
7 specific question, and I'd appreciate it if we
8 could try to get to the answer.

9 A. Sure.

10 Q. Do you know of any written policy
11 from -- the agency has in place that provides a
12 specific timeline by which approvals of release
13 have to be made?

14 A. There's not a specific timeline.
15 The timeline is as -- without unnecessary delay
16 on a case-by-case basis.

17 Q. Are you aware that this 30-day
18 business policy for denials was changed in 2017?

19 A. Yes.

20 Q. And do you understand that changed
21 from seven days to 30 days?

22 A. Yes.

23 Q. And why was it changed from seven
24 days to 30 days?

25 A. To -- to give the -- give enough

1 reasonable amount of time for the agency to
2 perform its review.

3 Q. At the time that the policy was
4 changed, do you know the extent to which the
5 agency was complying with the seven-day
6 requirement?

7 A. No.

8 Q. As you sit here today, do you have
9 any idea of the extent to which, since the 30-day
10 requirement was put into place, the agency has
11 complied with the 30-day requirement?

12 A. Yes.

13 Q. What's your understanding of that?

14 A. Very high, if not complete.

15 Q. And what's the basis on which you
16 have that understanding?

17 A. Well, I -- I do the denials, so
18 I -- I have some involvement of each of these
19 denials. So visibility on -- on those instances.

20 Q. So when you say you do the denials,
21 does that mean that any time a release is going
22 to be denied you're the one who makes that
23 decision?

24 A. As the director, denies, yes.

25 Q. Okay. But is the deputy director

1 authorized pursuant to your designation to deny
2 releases?

3 A. No.

4 Q. Okay. So all releases --

5 A. To parents and legal guardians.

6 Q. Right. You're the one who makes
7 the final decision on any denial; is that
8 correct?

9 A. Yes.

10 Q. Okay. Over the course of your
11 tenure, how many denials would you say you have
12 made?

13 A. A dozen or less.

14 Q. Okay. And with respect to that
15 dozen or less, do you have any information about
16 the extent to which those decisions were made
17 within the other seven or now 30 business days
18 from receipt of the documents from the field to
19 the case manager?

20 A. My understanding is that they were
21 all within the 30 days. And my expectation would
22 be that if we were outside the 30 days that I'd
23 be made aware of that.

24 Q. Okay.

25 MR. BYARS: Is this a good time for

1 a break? I don't want to interrupt your --

2 MR. DUNN: It's -- it's a break in
3 the question, so yes. We're going to go on to
4 the next topic.

5 MR. BYARS: All right. Very good.

6 THE VIDEOGRAPHER: Going off the
7 record at 2:27.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We are going
10 back on the record at 2:40. This begins disk
11 No. 4.

12 BY MR. DUNN:

13 Q. Mr. Lloyd, in terms of the process
14 of reviewing release decisions at your level,
15 does any person or agency outside of ORR play a
16 role in that?

17 A. No.

18 Q. If I can, let me direct your
19 attention back to the ACS information memo.

20 A. Exhibit --

21 MR. BYARS: Do you have a specific
22 number?

23 MR. DUNN: That -- that's it right
24 there (indicating).

25 MS. PADMANABHAN: Exhibit 2.

1 MR. DUNN: This one?

2 MS. PADMANABHAN: Yeah.

3 Q. Let me direct your attention to
4 the -- actually, the third page of the memo.

5 A. Okay.

6 Q. The second paragraph talks about an
7 MOA with DHS.

8 A. Yes.

9 Q. And talks about consultation on the
10 suitability of release from secure and staff
11 secure facilities, and the suitability of
12 sponsors.

13 A. Yes.

14 Q. Can you just review to yourself
15 that paragraph.

16 A. Okay.

17 Q. Since this memo from August of 2017
18 has there been any sort of agreement entered with
19 DHS about it playing a role in release decisions?

20 A. Yes.

21 Q. And what's the agreement now with
22 DHS about its role in release decisions?

23 A. It's along the lines of
24 information sharing. So it solidifies what
25 information we receive and what information they

1 receive.

2 Q. Okay. When ORR is making a
3 decision to release, or whether to release a
4 child, is it consulting with the DHS personnel
5 during the course of that review?

6 A. No.

7 Q. All right. At any time when you
8 are reviewing a particular case, do you consult
9 with someone at DHS before you make a final
10 decision?

11 A. No.

12 Q. Do you understand Mr. White or his
13 successor have done that when they are reviewing
14 cases?

15 A. Yes. But it -- it's in order to
16 gather more information. So it's not
17 consultation. It's information sharing.

18 Q. So would it be fair to say that, at
19 least from your perspective as you understand it,
20 DHS has no say in whether a child is released or
21 not from ORR custody?

22 A. Yes. That's right.

23 Q. And is it fair to say that the
24 process for making the decision does not require,
25 before the final decision can be made, a

1 consultation with DHS?

2 A. Consultation, no.

3 Q. Is there a document now that exists

4 that reflects this arrangement with DHS?

5 A. Yes.

6 Q. And what is that document?

7 A. It's a memorandum of agreement.

8 MS. FABIAN: Can we take a quick

9 break?

10 MR. DUNN: Can we take a quick

11 break?

12 MS. FABIAN: Yeah.

13 MR. DUNN: Of course.

14 MS. FABIAN: Thank you.

15 THE VIDEOGRAPHER: Going off the

16 record at 2:44.

17 (Recess taken.)

18 THE VIDEOGRAPHER: Going back on

19 the record at 2:46.

20 MR. DUNN: All right. Let the
21 record reflect that the witness stepped out with
22 his counsel. We're back on.

23 BY MR. DUNN:

24 Q. Is there something you want to say
25 now?

1 A. Let's just return to the question,
2 if we could.

3 Q. Okay. Well, the question was asked
4 and answered.

5 A. Okay.

6 Q. Do you want to change your answer
7 or amend your answer?

8 A. I don't remember the question,
9 sorry.

10 Q. Okay. On those occasions where you
11 might be getting information from DHS as part of
12 the review process, what type of information
13 would you be getting?

14 A. From DHS?

15 Q. Yes.

16 A. It's a -- it's a list of forms that
17 DH -- DHS uses, and in various situations. So if
18 there's known criminal activity or criminal
19 record, they use a form and -- and we would
20 receive that as pursuant to an MOA.

21 Q. And would you be receiving that at
22 the point at which you or your designee are doing
23 the review or that would have already been
24 collected as the case was coming up to you?

25 A. Yeah. It would have been collected

1 as it was coming -- coming up to me.

2 Q. All right. So does that mean that
3 once you get the case you're not at that stage
4 then, independently or in addition, seeking
5 information from DHS?

6 A. That's currently the case, yes.

7 Q. It's currently the case that you
8 are not seeking information once you have the
9 case?

10 A. Yes.

11 Q. Okay. Was that previously not the
12 case?

13 A. Very early there were occasions
14 where we were receiving like secondhand reports
15 of criminal activity, summaries where we wanted
16 to drill down into the source documents.

17 Q. You were receiving those secondhand
18 from DHS?

19 A. Yeah.

20 Q. Okay. And then that would prompt
21 you to go figure out if what's in the documents
22 from DHS was in fact accurate?

23 A. Yes.

24 Q. Okay. Can you estimate in how many
25 instances that scenario happened?

1 A. Three to four.

2 Q. In terms of that information being
3 collected before you got the case, is it being
4 collected by field staff or by other headquarters
5 staff before you and Mr. White, when he was the
6 deputy director?

7 A. Now it's collected by field staff.

8 Q. And previously it had been
9 collected by headquarters staff?

10 A. Yeah. Where -- where the records
11 seemed incomplete, headquarters staff was -- was
12 involved, mainly Jim De La Cruz.

13 (Reporter-initiated discussion off
14 the record.)

15 Q. Okay. Other than consultations
16 with DHS, is there any other federal agency that
17 is playing any role in the review process that's
18 being conducted at the headquarters level of
19 release decisions?

20 A. You said other than DHS?

21 Q. Yes.

22 A. No.

23 Q. Okay. Is any nonfederal agency,
24 such as a local law enforcement agency, playing
25 any role in the headquarters-level review process

1 for release decisions?

2 A. No.

3 Q. Okay. You had mentioned before the
4 community safety initiative?

5 A. Yes.

6 Q. Can you describe for me what that
7 was or what it is?

8 A. It's a -- it's a number of steps
9 that are taken in order to ensure that our
10 releases are duly mindful of concerns over
11 community safety.

12 Q. Okay. And what were the specific
13 steps that you took that you recall?

14 A. They're outlined in this -- in this
15 memo.

16 Q. Okay. And this memo, just to be
17 clear, is marked as Lloyd Exhibit 4?

18 A. Yes.

19 Q. Is that correct? The ACS memo from
20 August 2017?

21 MR. BYARS: I'm sorry, it's
22 Exhibit 2?

23 MS. FABIAN: Exhibit 2.

24 MR. DUNN: Just making sure
25 everyone's still awake.

1 MR. BYARS: Thanks for that.

2 MR. DUNN: Sure. The public
3 service I'm doing.

4 Q. Okay. At whose initiative did the
5 community safety initiative take place?

6 A. Mine.

7 Q. Yours.

8 A. In consultation with UAC staff.

9 THE COURT REPORTER: With what
10 staff?

11 THE WITNESS: UAC staff leadership.

12 Q. Okay. And was there something in
13 particular that prompted this initiative?

14 A. Yes. This was -- we -- we kind of
15 covered this. This was -- this was where we --
16 there was a number of news reports and a desire
17 for accountability and visibility.

18 Q. All right. I'm sorry. I
19 understood those news reports to have been things
20 that happened around when you became the
21 director?

22 A. Yes.

23 Q. All right. I see.

24 So this is still connected to those
25 news reports; is that correct?

1 A. Yes. And so around the time that
2 the release decisions were modified, these other
3 steps were implemented and then reported up.

4 Q. Now, you previously, when I was
5 asking you questions about various meetings you
6 had had, and we're talking about White House
7 meetings, you mentioned, as part of your
8 conversations with Steven Miller, the community
9 safety initiative?

10 A. Yes.

11 Q. All right. So let's tie that
12 together.

13 What specific role did Mr. Miller
14 have in the community safety initiative?

15 A. None.

16 Q. All right. So is it your testimony
17 that you told him about it but that's something
18 that had already happened?

19 A. Yes.

20 Q. All right. And why did you tell
21 him about it?

22 A. As part of the background of -- of
23 the UAC program.

24 Q. All right. Did anyone outside of
25 ORR play any role in the initiative that's

1 described here?

2 A. Yes.

3 Q. And who played a role in that?

4 A. Personnel from the Department of
5 Justice and Department of Homeland Security.

6 Q. And what role did they play?

7 A. At the outset in determining what
8 improvements the -- if any, the UAC program
9 needed to make, we had a number of consultations
10 with DOJ and -- and DHS.

11 Q. And were those on particular
12 topics?

13 A. Just -- just on the question of
14 dangerousness and community safety that appears
15 in the -- in our statutes. It's -- we weren't
16 desiring the law enforcement perspective on
17 those.

18 Q. And would it be fair to say, given
19 the content of this memo, that the central factor
20 in the community safety initiative was dealing
21 with gang affiliation amongst children who were
22 in UC -- in the UC program?

23 A. I would say that was a galvanizing
24 issue.

25 Q. Is there any other issue you would

1 describe as being that important, namely, the
2 galvanizing issue?

3 A. No.

4 Q. On the second page of this memo, in
5 the -- below the headline "Community Safety
6 Initiative," there is a bullet of sorts that's
7 headlined "No current gang members are eligible
8 for release to a sponsor from the program."

9 Do you see that?

10 A. Yes.

11 Q. Is the sentence in this document
12 the announcement of a new release policy that the
13 agency would put into effect?

14 A. Yes.

15 Q. Okay. Do you know of any --

16 A. Or gloss on any existing policy.

17 It could be -- it could be either a new policy or
18 gloss on an existing policy --

19 Q. Right.

20 A. -- regarding dangerousness.

21 Q. What existing policy do you know of
22 that stated that a current gang member was
23 ineligible for release?

24 A. Just that -- that our release
25 decisions are subject to considerations involving

1 dangerousness.

2 Q. Do you know of any document
3 anyplace else that explicitly states that
4 individuals whom the agency considers to be
5 current gang members are not eligible for release
6 to a sponsor?

7 A. No.

8 Q. For purposes of this policy, what
9 defines a current gang member?

10 A. Avowed or known gang membership
11 that has not been disavowed.

12 Q. You talked earlier about there
13 being programmatic awareness about gang
14 affiliation?

15 A. Yes.

16 Q. How is that communicated, if it was
17 at all, to field staff?

18 A. Programmatic awareness of gang
19 affiliation.

20 Q. Yes. I mean, I -- I take it that
21 what you meant to say, but I don't want to put
22 words in your mouth, was that the leadership of
23 the agency had communicated to agency staff that
24 agency staff was to pay very close attention to
25 possible gang affiliation.

1 A. Okay.

2 Q. Is that fair?

3 A. Yeah.

4 Q. Okay. How was that communicated to
5 agency staff?

6 A. This would be in communications
7 from the deputy director to the staff through the
8 federal field staff.

9 Q. Do you know of any particular
10 communication that addressed that particular
11 issue that in substance said we are telling you
12 now to pay very close attention to potential gang
13 affiliation?

14 A. I wouldn't be able to nail it down
15 to a particular email or if it was a conference
16 call. So the answer is pretty much no.

17 Q. Are there any written standards
18 that you know of that govern whether or not
19 someone qualifies as a current gang member for
20 purposes of the policy announced here barring
21 release to a sponsor for current gang members?

22 A. It's not written. It's a
23 program-wide understanding.

24 Q. What do you believe to be the
25 program-wide understanding about the content of

1 the definition of "current gang member"?

2 A. If there is known or -- or avowed
3 membership that has not been disavowed.

4 Q. Is there a process by which agency
5 staff ask the juvenile whether they are
6 disavowing gang membership?

7 A. It's an individ -- individualized
8 process.

9 Q. Well, I understand that. But is
10 it -- is it your understanding as a matter of
11 practice some member of the agency or employee of
12 the agency actually directly asks the child in
13 your custody if they are disavowing a gang
14 membership?

15 A. It would be a necessary element of
16 a release review where a gang membership is a --
17 is an issue.

18 Q. All right. And so just to be
19 clear, when you say "a necessary element," that
20 means that, in your mind at least, it is
21 necessary for someone from the agency to
22 expressly ask the child in custody, "Are you
23 disavowing gang membership"?

24 A. Where there has been no disavowal,
25 which is very rare.

1 Q. When there has not been disavowal.

2 So what I'm trying to understand is -- I'm just
3 trying to understand the decision-making process.

4 You're saying what disqualifies you
5 from release under this policy is you are an
6 avowed gang member, that's an affirmative
7 statement, or you have not disavowed it?

8 A. Yes.

9 Q. So what I'm trying to understand is
10 how it is you, as an agency, ascertain whether or
11 not someone is disavowing gang membership?

12 A. The -- the instances that I have
13 seen and I'm aware of, this becomes part of the
14 significant incident reports that accompany a
15 complete case file. And so there would be --
16 where -- wherever there's -- wherever there's an
17 indication of gang membership, affiliation, past
18 or present, there's follow-up at the clinical
19 level as to what exactly that means. And that
20 becomes a part of the record that's developed.

21 Q. But I take it you understand
22 there's a lot of territory between suspected gang
23 affiliation and avowed gang membership?

24 A. It's a spectrum.

25 Q. Okay. So as I understand your

1 testimony, you're saying this policy applies only
2 to those children who say, "I am in a gang," or
3 when confronted with that accusation refuse to
4 disavow their membership in a gang?

5 A. That's correct.

6 Q. Okay. And I'm just trying to
7 understand, does the agency, as a routine matter,
8 go to a child and say, "We believe you're in a
9 gang. Do you disavow that?" as a condition of
10 determining whether or not this policy applies to
11 them.

12 A. Yeah. It -- that's -- what you're
13 saying is generally accurate. It's not exactly
14 in term -- in the specific terms of disavowal.
15 It's more along the lines of "What is your
16 current status as a gang member" or . . .

17 Q. Okay. And you're saying if the kid
18 says "I'm MS-13" --

19 A. Yeah.

20 Q. -- you conclude the kid is a
21 current gang member?

22 A. Yes.

23 Q. All right. How many --

24 A. And there are -- there are some who
25 are proud to be a gang member and -- and want

1 everybody to know it.

2 Q. Okay. All right. How -- how many
3 children in ORR custody today, as far as you
4 know, are current gang members, for purposes of
5 this policy?

6 A. I would say about a dozen. But
7 this is an estimation.

8 Q. It's a big agency. Everything is
9 an estimation. I understand that. Okay.

10 And so would it be fair to say that
11 there are -- okay. For at least those dozen,
12 approximately, they're disqualified from
13 potential release?

14 A. Yes.

15 Q. All right. Let's talk about the
16 process by which you review cases. So if you
17 could, just as an initial matter, walk me through
18 the actual process from your learning that
19 there's a case to review to your final decision,
20 what's the step by step of that?

21 A. Okay. I receive -- if we -- so the
22 process has developed a little bit over time.
23 But I receive an email that previously had in the
24 body of the email contained a write-up from the
25 deputy director, along with any relevant

1 documents to the write-up. That would contain
2 the pertinent information for me to review it and
3 release a decision.

4 From that email I would know which
5 documents to examine, if further examination was
6 necessary. It would also contain a
7 recommendation from the deputy director. Now
8 this -- all that information is contained in a
9 form that we've been piloting and are getting
10 close to finalizing.

11 Q. Okay. So let's set aside the new
12 form for the moment. Let's just keep going with
13 the process that existed before this form.

14 So you get the email with the
15 write-up, with the documents, with the
16 recommendation. What do you do next?

17 A. Open -- open the email, read the
18 summary and examine background documents, if
19 necessary, for example, significant incident
20 reports. That's usually the main thing. And
21 then if -- if any of the documents or any part of
22 the summary require follow-up, I'll ask of the
23 deputy director what it is I -- I would like more
24 information about.

25 Q. And how would you typically ask

1 that?

2 A. Just respond to the email, and very
3 quickly ask about whichever element.

4 Q. And is that a common sequence where
5 you would ask for some more information?

6 A. It's common.

7 Q. Okay. All right.

8 So then what's next?

9 A. If -- if there's nothing to follow
10 up on, I respond with my -- my answer. I would
11 go into the body of the email, cut and paste the
12 name and alien number of the -- of the UAC so it
13 was clear who I'm referring to. And hit reply.

14 And then I would receive a
15 confirmation that the deputy director received it
16 and was notifying the field. In the instances
17 where there's more follow-up then I would just
18 expect an email follow-up in the form of a reply
19 to the earlier email which helps, so we can
20 examine the email chain.

21 And -- and I review the additional
22 information and on occasion that -- that leads to
23 other questions. But usually it's -- it's enough
24 to make a decision. And then I make the decision
25 upon the follow-up information.

1 Q. In terms of the documents that you
2 would get with the email, was there a standard
3 set of documents you'd receive?

4 A. No.

5 Q. Are there particular documents that
6 you would receive regularly, even if the entire
7 package was not a consistent package?

8 A. Significant incident reports.

9 Q. Any other documents that you would
10 routinely get?

11 A. Oh, yeah. The -- the release
12 recommendation from the field staff.

13 Q. How did Jonathan White -- well, let
14 me -- this is all coming from Jonathan White, at
15 least while he was a deputy?

16 A. Yes.

17 Q. How did he know which documents to
18 send you for any particular decision?

19 A. It -- it was a judgment call on his
20 part. And he got to know what it was I was
21 looking for from the questions I was asking in
22 the beginning. And so there -- there are --
23 there can be in any file a number of -- what I
24 guess I could say is that programs overreport
25 incidents out of an abundance of caution.

1 So one teenage boy slaps another
2 teenage boy with a towel. That's an
3 insignificant incident report but it's not going
4 to affect a release decision.

5 Q. All right. So the two categories
6 of documents that you mentioned you would
7 routinely receive were SIR, or the SIR reports,
8 and recommenda -- release recommendations from
9 field staff?

10 A. Uh-huh.

11 Q. Any other types of documents that
12 you would normally get from Mr. White?

13 A. If there -- yes. Psycho --
14 psychological evaluations where that's occurred.
15 And in some cases recidivism analyses, which have
16 names that I -- I don't remember the -- avoid
17 test on recidivism-type activity.

18 Q. And, as I understand your
19 testimony, there's no written listing documents
20 you're supposed to get, that that -- the
21 documents you were getting, at least from
22 Mr. White, were the product of just you having
23 worked together and him learning what documents
24 you'd want to see in cases you were reviewing.

25 Is that fair?

1 A. Yes. But if I felt that it was
2 incomplete, I would have access to the SharePoint
3 of all the -- all documents.

4 Q. And would there come times when you
5 would go to SharePoint to pull up documents for
6 purposes of your case review?

7 A. Yes.

8 Q. And you have direct access to it?

9 A. Yes.

10 Q. Okay. How common was it that you
11 were taking documents from SharePoint?

12 A. Not common. The minor -- minority
13 of cases.

14 Q. Other than asking Mr. White for
15 information or ask -- or getting information from
16 SharePoint, were there other ways that you were
17 getting additional information as you were
18 reviewing a possible release decision?

19 A. No.

20 Q. Did you at any point ever have
21 direct contact with field staff, in terms of
22 trying to collect more information, as you were
23 making a decision about a release?

24 A. I think so. I think they -- they
25 would sometimes be copied and I would reply all.

1 And I -- I think it's possible that there might
2 be one or two cases that were very involved where
3 there's a conference call and field staff, along
4 with Jonathan, were on the call.

5 Q. And you?

6 A. And me, yeah.

7 Q. Okay. So I'm just trying to
8 understand. You've gotten the case, you've
9 gotten the documents. You may want some more
10 information.

11 Are there instances there where you
12 are just going directly to an FFS, for instance,
13 or somebody else in the field to collect
14 information?

15 A. There may have been a few
16 instances, but it would be more like a way to
17 collapse the -- the structure so that everybody's
18 getting awareness at the same time, and it's
19 going directly to the people that have to act
20 upon it.

21 Q. In those instances where you're
22 collecting additional information, are you
23 hanging on to the case, or does the case come out
24 of your office and not come back to you until the
25 information's been collected?

1 A. More the latter.

2 Q. Okay. So would it be normal, for
3 instance, you get a package, you realize there's
4 more information you want that Jonathan might --
5 perhaps should collect. You would send the case
6 back to him and say, here's the additional
7 information I want. And he would then have it
8 for some period of time and then it would come
9 back to you again?

10 A. Yes.

11 Q. Okay. And what's your sense of --
12 in the number of instances in which that was
13 happening? I don't mean particularly in an issue
14 by Jonathan White, but when you're looking for
15 additional information and the case has gone back
16 to whomever, how common was that?

17 A. I would estimate it's in a quarter
18 of the cases.

19 Q. Okay. So just to put a little bit
20 of a number on this. You said earlier that you
21 thought that you probably yourself reviewed
22 somewhere between, I think, 100, 120 cases?

23 A. Yes.

24 Q. So if we take a quarter, maybe 25
25 cases or so you might have asked for additional

1 information, sent the case back to wherever, and
2 then subsequently got the case back to you; is
3 that correct?

4 A. That sounds right.

5 Q. Okay. So does that 25 number sound
6 like a ballpark correct number?

7 A. It sounds -- sounds good. I'm not
8 a numbers guy, though.

9 Q. Well, that's okay. And again I
10 realize -- I realize you have a lot of things on
11 your plate. So I'm just trying to get the best
12 sense --

13 A. Sure.

14 Q. -- besides your best guess in the
15 range of cases where that might be --

16 A. Yeah. That would be my best guess.

17 Q. Do you have any sense of how much
18 time it would take to get that additional
19 information?

20 A. That's -- that's a case-by-case
21 basis. But if it's an -- if it's an issue of
22 speaking to the -- to the clinical staff or to
23 the UAC themselves or to the family, it would be
24 shorter than if it involved gathering information
25 from law enforcement or something where another

1 agency is involved.

2 Q. Okay. Do you have a sense of the
3 range, approximately, of time it would take to
4 collect that additional information?

5 A. In the former case, reaching out to
6 the UAC or -- who was directly handling the UAC,
7 I would say 48 hours. And if -- if there's law
8 enforcement involved, I would say up to 72 hours,
9 the best estimate.

10 Q. And in terms of those two
11 categories for the 25 cases approximately, how
12 many of those would be law enforcement versus the
13 internal additional information?

14 A. I -- I don't know.

15 Q. Okay. During the course of your
16 review, in addition to looking at documents that
17 you received, would you consult with any in-house
18 staff about the case, or did you?

19 A. If -- sometimes the -- the back and
20 forth that I have with Jonathan was also person
21 to person and would involve other staff, like
22 Jallyn or -- Jallyn Sualog or Jim De La Cruz,
23 typically.

24 Q. Okay. What would be their role in
25 the consultation?

1 A. They would just have a little bit
2 more visibility into the case, and could produce
3 some of the details quicker in a conversation
4 than -- than Jonathan.

5 Q. Okay. In what percentage of cases
6 would you say that you just reviewed the case
7 without that sort of consultation and made a
8 decision yourself?

9 A. Without the in-person, most cases.
10 So there would only be a handful, less than five,
11 where it called for a meeting or a conference
12 call or something.

13 Q. Less than five with 100 to 120?

14 A. Yes.

15 Q. Okay. And for the balance of the
16 cases you would get the information from Jonathan
17 White, maybe it's supplemented from other
18 sources, and then you yourself were reviewing the
19 materials and making a decision; is that correct?

20 A. Yes.

21 Q. Okay. Was there -- was there any
22 instance in which you personally interviewed the
23 child as part of your decision-making process?

24 A. One instance where I interviewed
25 the child. That was the -- in the context of

1 litigation.

2 Q. And what was that?

3 A. Well, it's in the context of a
4 release review.

5 Q. And what were the particulars of
6 that release review?

7 A. There was allegations of gang
8 involvement, and so there was a conference call.

9 Q. Do you remember who the -- it was a
10 conference call with the child?

11 A. Yes.

12 Q. Okay. Do you remember who the
13 child was?

14 A. If I -- I think I know. I think
15 it's -- the initials were AH. But it could be --
16 it could have been a different -- different
17 initial.

18 Q. When approximately did that happen?

19 A. Over the summer. June, July.

20 Q. I'm sorry, did you say that was in
21 conjunction with litigation?

22 A. Yes.

23 Q. And was that a lawsuit in which he
24 was challenging his detention in ORR custody?

25 A. Yeah. I believe it was a habeas

1 case.

2 Q. Okay. Do you recall meeting the --
3 I'm sorry?

4 A. I hope I got that right.

5 Q. Okay. That's all right.

6 Do you recall meeting the juvenile
7 who's the named plaintiff in this case?

8 A. Yes.

9 Q. Do you remember meeting him at
10 Shenandoah?

11 A. Yes.

12 Q. Okay. How is it that you met with
13 him?

14 A. It was -- on my visit to Shenandoah
15 as part of our regular site visits. It's one of
16 our, at the time, two secured facilities. And I
17 believe at the time I'd already visited the Yolo.
18 And so this was an opportunity to see our other
19 facility.

20 (Reporter-initiated discussion off
21 the record.)

22 Q. Was your meeting with him any part
23 of your review process of whether he should be
24 released?

25 A. No.

1 Q. Okay. Do you understand that he
2 was released after this lawsuit was filed?

3 A. Yes.

4 Q. Did you participate in the decision
5 to release him?

6 A. If I recall correctly, there was a
7 bond hearing where he was successful, and so
8 there -- there wasn't more for me to do at that
9 point. The rest of the determination was the
10 suitability of the sponsor, which I'm not
11 involved in.

12 And if -- and just to be clear,
13 I -- I believe that this situation did come
14 across my desk where I instructed along those
15 lines, that if there's been a bond hearing that
16 we are not going to appeal, then I -- I'm not
17 involved in the suitability determination.

18 Q. Right. So, in other words -- and
19 you said this before -- if what you're involved
20 in is a dangerousness determination, and if
21 there's, I believe you described it as a bond
22 hearing, then that determination has been made?

23 A. Yes.

24 Q. So in those instances where there's
25 a judicial determination about dangerousness,

1 even the only issue being suitability, you're out
2 of the picture and you will just confirm what the
3 field staff has approved; is that correct?

4 A. Yes. Except that I -- I will also
5 ask for recommendation as to appeal. Just
6 whether we would -- it's advisable to appeal the
7 bond hearing determination.

8 Q. Okay. And you'd ask about that
9 recommendation of whom?

10 A. Our policy staff, and it would
11 usually be Toby Biswas.

12 Q. Is it your understanding that ORR
13 gets to decide whether or not to appeal a
14 dangerousness determination by an IJ?

15 A. Yes.

16 Q. And in those instances in which the
17 agency decides to appeal --

18 A. Uh-huh.

19 Q. -- do you then proceed with a
20 dangerousness assessment of that child?

21 A. It's happened very -- very rarely
22 and -- and so when it's -- when it's been
23 transferred to the context of -- of court
24 determination, then we're -- the court
25 determination, whichever the final one ends up

1 being, is the -- is the final determination of
2 dangerousness.

3 Q. I understand that. But, for
4 instance, as I'm sure you know, there's a
5 substantial time -- period of time that it takes
6 to appeal one of those determinations.

7 A. Uh-huh.

8 Q. So I'm trying to figure out, let's
9 say --

10 A. Oh.

11 Q. -- on January 1 there's a hearing
12 in which an IJ determines the child is not in
13 danger. A decision is determined to appeal,
14 which might get decided six months later.

15 Are you making a decision in the
16 interim about release based upon dangerousness
17 independent of what the IJ decided?

18 A. If we're appealing, then we -- then
19 UAC remains in custody.

20 Q. Okay. So -- all right. Because in
21 that instance, if you're appealing, that means
22 you've concluded the child is a dangerous -- the
23 danger is sufficient to warrant denial of a
24 release; is that correct?

25 A. Yeah. That we're seeking -- we're

1 seeking another court's determination as to
2 whether the UAC is dangerous.

3 Q. Well, I understand, by virtue of
4 the fact that you have decided to appeal, you're
5 seeking further review. But I also understand
6 from your testimony that means that you have
7 concluded that the child presents sufficient
8 danger that, in addition to appealing, at the
9 same time you're going to deny a release?

10 A. We're not -- we're not releasing in
11 that interim, that's correct.

12 Q. Okay. Who makes the decision on
13 behalf of ORR to appeal in those circumstances?

14 A. I do, in consultation with policy
15 and office of general counsel.

16 Q. And what criteria do you use to
17 make the decision of whether or not to appeal?

18 A. It's -- it's the recommendation as
19 to the prudence of the appeal, in light of the
20 facts of the -- of what we -- which facts we use
21 to make our dangerous determination.

22 Q. All right. So let's talk about
23 that. Tell me what facts you are using to
24 determine dangerousness when you are reviewing a
25 case for a possible release.

1 A. Which facts for dangerousness?

2 Q. Uh-huh.

3 A. Well, it would be any -- any
4 information related to violent incidents, SIRs
5 that would indicate that UAC, if once released,
6 would be a danger to himself or to others.

7 Q. Do you have a protocol or a tool
8 that you use in making that assessment?

9 A. Of dangerousness?

10 Q. Yes.

11 A. I do not use -- I do not personally
12 use a tool in every case. It's individualized.

13 Q. Does the agency staff below you
14 have a tool that it uses that as policy is part
15 of the documents that you receive when you review
16 a case?

17 A. It's not a tool. It's an
18 individualized determination based on judgment
19 related to child welfare and all considerations
20 that are relevant to release on dangerousness.

21 Q. What formal training do you have
22 about -- that allows you to assess a dangerous --
23 dangerousness that a child presents?

24 A. I just do what any good attorney
25 would do in my shoes, which is to rely on those

1 who have the training related to child welfare
2 and behavioral issues. So my training instructs
3 me to rely on those with training.

4 Q. All right. So fair enough.

5 Given that you don't have any tool
6 that you are receiving in your materials, what is
7 it that you're looking at that tells you what the
8 assessment is of the professionals about the
9 dangerousness of a child whose case you are
10 reviewing?

11 A. Their recommendation is to
12 dangerousness and suitability for release.

13 Q. So the recommendations that you're
14 receiving include a specific treatment of the
15 dangerousness of the child?

16 A. Yes.

17 Q. So if we look at case records, for
18 instance, that have come to you, and of course we
19 have some of those, there's going to be some
20 discrete discussion about dangerousness?

21 A. Yes.

22 Q. Okay. And that's something that --
23 that's a part of the records that you get that
24 you look at?

25 A. Yes.

1 Q. With respect to SIRs, to the extent
2 there are additional incidents during the period
3 when the -- after the case has been elevated to
4 headquarters, do they come to you also as part of
5 your review process?

6 A. I'll do -- any relevant SIRs come
7 to me?

8 Q. Right. Things that happen after
9 the case has been elevated.

10 A. There would be. There would, yes.

11 Q. So given your reliance upon
12 professional staff, does that mean that you
13 always make a final decision that's consistent
14 with the recommendation of professional staff
15 concerning the dangerousness of the child whose
16 case is being reviewed?

17 A. In most instances I do defer to
18 the -- to the judgment of staff. And where
19 there's anything that's -- that's unclear to me,
20 that's where the follow-up process comes in. And
21 it's rare if that ever -- in the end that I'm not
22 following the recommendation of -- of staff.

23 Q. Okay. In what number of cases,
24 since you became the director and assumed this
25 responsibility, have you rejected the

1 recommendation of staff with respect to a release
2 decision that you reviewed?

3 A. That's a difficult question to
4 answer because usually what you're describing as
5 rejection is really -- well, not real -- usually.
6 But, in any case, a discrete denial of release
7 is -- is kicked back down into an automatic
8 review process where placement is reviewed
9 regularly every 30 days. So really any --
10 there's no final denial of release.

11 Q. All right. But there are, I take
12 it, situations where -- I mean, you're getting a
13 case to review, in this class of cases covered by
14 the policy, namely, anyone who is or has been in
15 a secure or staff secure.

16 As I understand your testimony, in
17 all of those cases you had a recommendation from
18 professional staff whether to release or not; is
19 that correct?

20 A. Yes.

21 Q. All right. And then you make a
22 final decision, at least whether to release or
23 not, at that point in time?

24 A. Yes.

25 Q. Okay. So what I'm trying to

1 understand is, in how many cases since you became
2 the director and had this responsibility, have
3 you at that point in time rejected the
4 recommendation of the professional staff and
5 decided either to not release at that point in
6 time, contrary to recommendation of the release,
7 or vice versa?

8 A. Between five and 10.

9 Q. And have all of those instances
10 involved your recommending or deciding to release
11 when the recommendation is not to release?

12 A. I believe so.

13 Q. In how many of the five to 10?

14 A. One or two.

15 Q. Okay. And in the other instances,
16 just to be clear, you get a recommendation from
17 staff to release, and you decided, after review
18 of the file and the materials, that at that point
19 in time the child would not be released; is that
20 correct?

21 A. Yes. That's correct.

22 Q. All right. In those instances
23 where you make a decision to not release at that
24 point in time, notwithstanding the recommendation
25 of staff, what documentation, if any, do you

1 create identifying the reasons for your decision
2 to disregard the recommendation of professional
3 staff and choose not to release at that point in
4 time?

5 A. A reply email.

6 Q. And to whom does that go?

7 A. To the deputy director.

8 Q. All right. And in that reply email
9 do you provide reasons why, or have you provided
10 reasons why you were denying the release at that
11 time?

12 A. Yes.

20 A. There ought to be, yes.

21 (Reporter-initiated discussion off
22 the record.)

23 Q. So in those whatever number of
24 cases it is, as many as nine cases, what
25 qualifies you, in your opinion, to disregard the

1 judgment of professional staff concerning the
2 dangerousness of the child?

3 A. It's just inherent in the position
4 of the director that I am, for the secretary's
5 purposes and in the secretary's judgment, the
6 person with whom that decision rests. And it's
7 one that I take very seriously.

8 Q. All right. So I want to go back
9 and try to do a little bit of counting here,
10 because I just want to make sure I understand the
11 various numbers.

12 You have said that you think that
13 you, during your tenure, have reviewed the cases
14 of 100 to 120 children; is that correct?

15 A. Yes.

16 Q. Okay. And then I want to
17 understand, in addition to that, how many cases
18 do you believe Mr. White or his successor
19 reviewed?

20 A. I don't know. And I'm not sure how
21 to perform an estimate.

22 Q. Good for you for anticipating the
23 next question, but yes.

24 All right. You, I take it, had a
25 lot of dealings with Mr. White while he was your

1 deputy?

2 A. Yes.

3 Q. Okay. And you, of course, are
4 aware that he was deciding cases that were not
5 coming to you?

6 A. Yes.

7 Q. And I take it you have a sense
8 of -- you identified the criteria where the ones
9 that he was likely to have in the end were less
10 violent incidents or attempted escapes, where you
11 would getting the more violent?

12 A. Yeah.

13 Q. You get lots of reporting orally or
14 otherwise about caseloads in your agency?

15 A. Yes.

16 Q. Let's try the question that you
17 anticipated. Given all that information, and
18 given that it is your estimate that you had
19 between 100 and 120 cases, do you have any sense
20 of how many cases Mr. White might have made
21 decisions on?

22 A. I would -- my estimate or guess
23 would be that it was a minority. Less than 120
24 that he decided not to share with me.

25 Q. Uh-huh. Okay. Would it be fair to

1 say that, with respect to Mr. White, and maybe
2 you said this before, and I apologize if I'm
3 repeating myself, did he have the authority to
4 deny a release when there was a recommendation
5 from field staff to release?

6 A. Yes.

7 Q. Okay. Do you know of any instance
8 where he actually did that?

9 A. Not a specific instance.

10 Q. Do you -- would you expect that if
11 he were going to deny a recommendation to release
12 that he'd come talk to you about that?

13 A. No.

14 Q. Okay. And am I correct in
15 understanding, and I apologize if this is just an
16 essential point, but the only cases that are
17 coming up are once there's a recommendation for
18 release?

19 A. Yes.

20 Q. No one's sending up a case saying a
21 recommendation is not to release; is that
22 correct?

23 A. Yes.

24 Q. Okay. All right. In terms of the
25 notion of you having 100 to 120 cases, what's

1 that estimate based upon?

2 A. Just -- just a little bit of simple
3 math where I get a few a week and roughly a year
4 times 52 weeks.

5 Q. Okay. So I'm with you on simple
6 math. If a few a week is two to four, three to
7 five, times 52, I'm in the 150, 160, 170 range?

8 A. Well, it's more -- it's sometimes
9 two, sometimes zero, sometimes three to four.

10 Q. Okay.

11 A. On a weekly basis.

12 Q. If you wanted to go back tonight,
13 Friday night, and it was just -- you had a
14 burning urge to figure out how many cases you'd
15 actually reviewed --

16 A. Yeah.

17 Q. -- would you be able to do that?

18 A. Oh.

19 Q. I'm not asking you to do it
20 tonight. I'm just asking, do you have the
21 ability to go back and identify --

22 A. It -- it shouldn't -- it should all
23 be in my inbox, outbox.

24 Q. Okay. You're referring to your
25 email inbox and outbox?

1 A. Yes.

2 Q. Okay. Do you keep any log of cases
3 that you've reviewed?

4 A. No.

5 Q. Okay. Does SharePoint have the
6 capacity to generate a list of every single case
7 that was submitted to it?

8 A. I don't know.

9 Q. Do you know if Mr. White kept any
10 sort of log of the number of cases that he
11 reviewed?

12 A. I don't know.

13 Q. In the time that you have been the
14 director, do you know how many cases have come
15 out of New York for your review?

16 A. No.

17 Q. Do you recall any cases that came
18 out of New York?

19 A. Yes.

20 Q. How many do you recall,
21 approximately?

22 A. Three or four.

23 Q. With respect to the cases that you
24 have reviewed during your tenure, what is your
25 estimate of the average period of time it took

1 from the very first time you learned of the case,
2 namely, when you got the email, to your making a
3 final decision? And I'm including in that, for
4 instance, time that might have run off the clock,
5 so to speak, when you had to go back for more
6 information.

7 A. Right.

8 Q. So do you have a sense of the
9 average period of time it's taking you to review
10 from beginning to end cases coming to you?

11 A. I would give the average at five
12 days, because there are more involved cases that
13 took many days, and -- but most take an hour to
14 two.

15 Q. And does that mean that in your
16 mind that you're reviewing them the same day
17 you're receiving them?

18 A. Yes.

Q. Is that your standard practice?

20 A. Yes.

Q. All right. So that's the short end. And I realize an average is an average.

1 A. I'd estimate two weeks.

2 Q. So I take it by that you mean, as
3 you sit here today, you don't think of any case
4 that more than two weeks have elapsed between
5 when you first received the email with
6 information about the case to the point at which
7 you made a final decision?

8 A. That's correct. As you're saying
9 it, I'm recalling an instance, for example, of
10 where I would say we need 30 more days of good
11 behavior and care before we would consider
12 release. So there's an initial denial decision
13 and then a -- a review.

14 Q. All right. So I understand that.
15 But what I'm focused on, at least initially, is,
16 that's a situation where you ultimately decided
17 at that point in time to deny a release?

18 A. Yes.

19 Q. And sent it back for something more
20 to happen?

21 A. Yes.

22 Q. And then I take it what would have
23 to happen or did happen in that case is it comes
24 back to you?

25 A. Yes.

1 Q. And then you make a decision to
2 approve release; is that correct?

3 A. Yes.

4 Q. All right. So I'm just focusing on
5 again the period of time it's taken for you, once
6 you get a case, to make a final decision.

7 I understand in this instance you
8 might have gotten a case twice?

9 A. Yes.

10 Q. The first time and the second time?

11 A. Yes.

12 Q. But that 30 days is not for you to
13 make a decision in either of those instances.
14 You're saying that's 30 days in between the two
15 times the case came to you; is that correct?

16 A. Yes. Yes.

17 Q. Okay. Do you keep any sort of log
18 of how long it takes you to decide cases?

19 A. No.

20 Q. Okay. Would there be a way to know
21 how much time it took to you decide a case, other
22 than looking at the time that elapsed between the
23 original email you got and the email you sent to
24 Jonathan White with your final decision?

25 A. No.

1 Q. Before you get a case --

2 A. Yes.

3 Q. -- is there a process at
4 headquarters between when the field sends a case
5 for your review and when you get the case?

6 A. Yes.

7 Q. Okay. What's that process?

8 A. Formerly it was -- and this is a
9 process that developed over time -- that Jonathan
10 withheld from his support staff receiving what
11 you could say is raw release packet that he would
12 synthesize and summarize for review by me.

13 Q. Do you have any sense of -- well,
14 let me back up a second.

15 Is it your understanding that in
16 every instance where you ultimately were making
17 the decision that Jonathan White, with his
18 support staff, was doing some work on the case
19 after having gotten it from the field and before
20 giving it to you?

21 A. Yes.

22 Q. Okay. And would part of that
23 involve Jonathan White preparing a memo for you
24 about his take on the case?

25 A. Yes.

1 Q. And is that the recommendation
2 now -- is that a recommendation now that you
3 would also review?

4 A. Yes. That was the email we've been
5 referring to.

6 Q. Okay. So you get a release
7 recommendation from the field, which is a
8 document, I take it, but you're also getting an
9 email from Jonathan White with his thoughts about
10 the case?

11 A. Yes.

12 Q. Okay. Do you have any sense of how
13 much time it was taking Jonathan White to do the
14 processing that he was doing before the case came
15 to headquarters and was forwarded to you?

16 A. I don't have a firm sense of the
17 time.

18 Q. Other than asking Jonathan White,
19 do you have any idea how one would learn how much
20 time that was taking?

21 A. Just email records of him receiving
22 a release for review and then sending it to me.

23 Q. As I understand it, the procedure
24 that your agency has, and has had for quite
25 sometime, is the documents get sent to SharePoint

1 from the field; is that correct?

2 A. Yes.

3 Q. All right. So -- and that's your
4 portal, if you will, for someone, amongst other
5 things, requesting director-level review and
6 approval of a recommendation of release for those
7 children who are covered by the policy; is that
8 correct?

9 A. Yes.

10 Q. And then Jonathan White would have
11 access to SharePoint, he would do whatever he
12 does with it, and he would then forward the
13 materials to you; is that correct?

14 A. Yes. As we're saying this, some --
15 sometimes for the -- for the purposes of the
16 heightened review process, documents were put in
17 SharePoint. In most cases those documents would
18 exist in the portal. So I'm correcting -- I'm
19 correcting this so everybody understands.

20 And it's the portal where we're
21 able to see and share reports, the release memo
22 lives. So it's -- it's two separate databases of
23 information.

24 Q. You had me till the very last
25 sentence you said there.

1 A. Yes.

2 Q. So I want to make sure I understand
3 this. Are you saying that -- I was hypothesizing
4 a situation in which documents are being uploaded
5 to SharePoint for the first time from the field?

6 A. Yeah.

7 Q. And that would then be the packet
8 that would get looked at. Are you saying that in
9 truth some of those documents may have already
10 been in SharePoint, and that new stuff is being
11 added to SharePoint in conjunction with the
12 request?

13 A. No.

14 Q. Okay. Sorry.

15 A. It's -- I -- I made a mistake and
16 I'll try to explain it clearly. So all -- all
17 documents related to UAC exist in a portal, and
18 that would include all SIRs, were they there.

19 At the very beginning of the
20 process, Jonathan was going into the portal and
21 retrieving those SIRs and emailing them all to
22 me, which became cumbersome. And he decided to
23 begin using SharePoint, which is where we can
24 dump a lot of documents for many different
25 purposes to -- for many people to view them

1 concurrently.

2 Q. I see. All right. So I think I
3 understand it. So when you earlier testified
4 that sometimes you yourself would go into
5 SharePoint?

6 A. I would be going into the portal.

7 Q. You'd be going to the portal?

8 A. Yes. Except when he submitted his
9 documents on SharePoint and I would go into
10 SharePoint to determine whether I needed to go
11 into the portal.

12 Q. Got you. What do you call the
13 portal?

14 A. UA -- the portal.

15 Q. You just call it the portal?

16 A. Right. The UAC portal.

17 Q. The UAC portal. All right.

18 With respect to the cases that
19 Jonathan White was making the final decisions on,
20 do you have any idea how much time it was taking
21 him to make those decisions?

22 A. I would expect that he was -- he
23 was trying to turn them around in 24 hours.

24 Q. And when you say you would suspect
25 that's what he was trying to do, can I take it

1 that you actually have some information to
2 suggest to you that's what he -- was his normal
3 practice?

4 A. It was his normal practice.

5 Functionally, I think that timeline spilled over,
6 but he would -- Fridays would be where he circled
7 through any backups.

8 Q. And I'm sorry if I asked you this
9 before, but do you know of any instance where he
10 rejected a field recommendation for release?

11 A. It wasn't a specific instance, but
12 he described receiving releases where he just
13 said no way and sent it right back.

14 Q. Okay. And do you recall how many
15 instances where that happened?

16 A. It -- it was never described to me
17 in any quantifiable way. It was just . . .

18 Q. And did you understand him to be
19 applying the same dangerousness concerns in
20 reviewing cases that you are applying when you
21 review cases?

22 A. Yes. At some point it became clear
23 that we were very much on the same page.

24 Q. All right. So, like you, he was
25 not assessing suitability of the sponsor?

1 A. Right. That was the recommendation
2 of the field staff.

3 Q. Okay.

4 MR. DUNN: All right. Let's go off
5 the record for a second.

6 THE VIDEOGRAPHER: Going off the
7 record at 3:50.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We are going
10 back on the record at 4:02. This begins disk
11 No. 5.

12 BY MR. DUNN:

13 Q. Mr. Lloyd, you mentioned that there
14 were five to 10 cases where you made a final
15 decision that was different than the decision of
16 the professional staff. And one of those -- one
17 or two of those you thought involved your
18 deciding to release, where the recommendation was
19 not to release.

20 A. Yes.

21 Q. Given that the only cases that come
22 up in the field, as I understand it, are requests
23 for release, does that mean in those one or two
24 cases Mr. White would have decided not to
25 release, and then you would have not accepted

1 that and the decision that you were differing
2 with was Mr. White's decision, as opposed to a
3 field decision?

4 A. It was a disagreement with the
5 recommendation. So it wouldn't be a succession
6 of decisions. There would be recommendations
7 leading up to the decision.

8 Q. I understand. But it would be the
9 recommendation of Mr. White, as opposed to the
10 field staff; is that correct?

11 A. Yes. The -- the ones that I recall
12 it was Jonathan recommending against releasing.

13 Q. Okay.

14 A. Me releasing.

15 Q. Okay. With respect to those
16 instances in which there's been a bond hearing, a
17 Flores hearing in which it's been determined the
18 child is not a danger, are those cases that
19 simply are coming out of the policy and not
20 coming to you for review at all?

21 A. Oh. Well, it just depends on the
22 circumstances of the -- of the case. So it could
23 be that -- so the release process happens
24 concurrently with the bond hearing process. And
25 it could be that bond hearing occurs while

1 they're still reviewing the release or after
2 release denial is also a possibility.

3 Q. All right. But if there's a bond
4 hearing that takes place prior to the case coming
5 to you, and it's a case that is otherwise covered
6 by the policy, and it was someone who has been or
7 is in secure or staff secure, if there been a
8 bond hearing where the IJ has found the child is
9 not a danger, does that mean the case never comes
10 to you and the field can then release?

11 A. It's not 100 percent clear from my
12 perspective. But it has come up. I don't know
13 if it was more of an FYI or what, but the
14 instruction has always been the same, that unless
15 there's a -- a recommendation to appeal, then
16 release should occur, pending suitability of the
17 sponsor.

18 Q. In that -- in those instances, as I
19 understand it, that does not require you
20 personally reviewing the case and approving the
21 release; is that correct?

22 A. That's correct.

23 Q. All right. And has that been the
24 practice during the entire time that you've been
25 the director?

1 A. That's been my understanding.

2 And -- yes.

3 Q. Have you, when you have -- in those
4 instances where you have not approved release,
5 have you directed that particular social work
6 happen in the case in the field once you send the
7 case back?

8 A. Yes.

9 Q. And how often has that happened?
10 And, again, we're talking about I guess the
11 universe of five, six, seven cases.

12 A. Most of the time. At least half.
13 Probably three-quarters.

14 Q. And what sort of things have you
15 directed to take place in the case?

16 A. Counseling regarding a specific
17 aspect of their dangerousness. One example I can
18 recall is -- is inappropriate sexual behavior
19 where -- where there's a recommendation that the
20 counseling occurred after release, but it was my
21 determination it should occur in -- in release --
22 before release, sorry.

23 Q. And were there particular steps
24 that you recall directing take place before
25 release in a particular case?

1 A. No. Only thing would be along
2 those lines.

3 Q. And with respect to your directive
4 that that sort of counseling take place, was that
5 a recommendation you made after consulting with
6 somebody else on your staff, or is that a
7 recommendation based -- you made based upon your
8 own review of the case?

9 A. In con -- in consultation with
10 staff generally. And I would just note that
11 there are a couple of -- of other cases where
12 there were -- there's indications that -- that
13 UAC was trying to distance themselves -- distance
14 themselves from gang activity, and we would ask
15 for some sort of written statement along those
16 lines. And other follow on.

17 Q. Written statement from the --

18 A. From the UAC.

19 Q. Confirming efforts to disassociate
20 from gangs?

21 A. Yes. And I think on one or two
22 occasions gang avoidance training in -- in care.

23 MR. DUNN: Can I have that marked.

24 (Lloyd Exhibit Number 7, email
25 string, top one dated 4/3/18 from

1 De La Cruz to De La Cruz, bearing Bates
2 Numbers HHS022711, marked for
3 identification as of this date.)

4 Q. Mr. Lloyd, I'm showing you a
5 document that was produced to us in discovery.
6 It bears the Bates stamp 22711. It's an email
7 from April 3rd of this year.

8 A. Yes.

9 Q. At the bottom it appears to have a
10 portion that is an email from you to Jonathan
11 White.

12 Do you see that?

13 A. Yes.

14 Q. As far as you know, was this action
15 email that you sent?

16 A. Yes.

17 Q. All right. Is this an example of a
18 case where you directed that certain things
19 happen in a case in conjunction with denying
20 release?

21 A. Yes.

22 Q. Okay. Do you remember sending this
23 email?

24 A. Yes.

25 Q. All right. Can you explain what

1 you're referring to when you mention "affidavit,
2 STRONG, et cetera"?

3 A. So it says "perform post-release
4 actions while in custody." There would have
5 been -- attached to the original email, there
6 would have been the release recommendation that
7 would have included a battery of efforts to be
8 done post-release, which we would refer to as
9 post-release or -- post-release services. And
10 that's where I'm -- that's where I'm gathering
11 these specific steps.

12 Q. So do you recall, as you're sitting
13 here now, what, for instance, "STRONG" refers to?

14 A. It would have been -- it's a --
15 it's a gang avoidance training, but I don't
16 recall without looking at that original
17 attachment what the acronym stands for.

18 Q. And do you know what the term
19 "affidavit" here refers to?

20 A. It was either a recommended
21 affidavit swearing off gang activities, or it
22 was -- or it could have been expecting Jonathan
23 to know what I was talking about from previous
24 contacts, that we were going to do an affidavit
25 in this -- this case.

1 Q. In the five, six, seven, whatever
2 the number is, of cases where you decided not to
3 release at that point in time, how many of those
4 cases were cases that involved what you
5 understood to be some sort of gang affiliation?

6 A. I would say most -- most of them.

7 Q. Can you think of any case of those
8 group that did not involve gang affiliation?

9 A. I recall some general fact patterns
10 where there's just dangerousness that was not
11 directly connected to gang involvement. They
12 just had a lot of trouble controlling themselves.

13 Q. Okay. Beyond those, most of them
14 are gang cases; is that correct?

15 A. Yes.

16 Q. Okay. And is this kind of a
17 typical email that you would send when you were
18 denying release in a case?

19 A. Yeah. Yes.

20 Q. And is there anything unusual about
21 this email in terms of the particulars of the
22 information you're providing concerning your
23 decision?

24 A. Seems a bit short -- shorter
25 than -- than typical.

1 Q. Okay.

2 (Lloyd Exhibit Number 8, list of
3 cases elevated to ORR, bearing Bates
4 Number~HHS000226, marked for
5 identification as of this date.)

6 Q. This is where we give you a vision
7 test. I apologize for how small it is, but you
8 can thank your counsel for that. That's the way
9 it came.

10 A. Okay.

11 Q. I will just say for the record that
12 we did a little cutting and pasting here, so the
13 Bates number that is on here is my understanding
14 is the accurate Bates number, but we did some
15 reformatting to try to make this a little more
16 legible --

17 A. Okay.

18 Q. -- as small as it is.

19 MR. DUNN: So we've shown the
20 witness what's marked as Bates stamp 226.

21 MR. BYARS: This is going to be
22 Exhibit 8?

23 MR. DUNN: This is Exhibit 8.

24 That's correct.

25 THE COURT REPORTER: Yes, it is.

1 Q. Mr. Lloyd, have you seen this
2 document before?

3 A. I believe so.

4 Q. When did you see this document?

5 A. Probably in preparing for this.

6 Q. Okay. Not to wander into territory
7 that you were trying to avoid wandering into, but
8 you said you had reviewed one document in
9 preparation for this deposition. Is this the one
10 document?

11 A. Oh. No. It's not.

12 Q. Okay. So you reviewed at least two
13 documents in preparation for the deposition?

14 A. I don't -- I don't -- I don't know.
15 This looks familiar. It looks like something I
16 may have seen. I'm guessing that I have seen it
17 and don't remember the context now.

18 Q. Did you play any role in the
19 preparation of this document?

20 A. No.

21 Q. Have you made any effort to
22 ascertain the accuracy of the information in the
23 document?

24 A. No.

25 Q. Do you have any idea what this

1 document purports to provide in terms of case
2 activity?

3 A. Yeah. I -- I -- this looks like
4 what would be a list of -- of cases that were
5 elevated to us.

6 Q. Elevated to you. And you said
7 "us." You mean the agency?

8 A. No. To the office of director. So
9 Jonathan and/or I.

10 Q. Okay. And what makes you think
11 that that's what this list of cases is?

12 A. Just the formatting.

13 Q. Have you seen other documents that
14 look like this before?

15 A. Not -- not like this, no.

16 Q. If I told you there are 114 cases
17 on here, given your testimony about the number of
18 cases that you reviewed and the number of cases
19 that he reviewed, do you have any explanation of
20 why there would only be 114 cases on here?

21 A. They -- my memory was off in that
22 we -- we reviewed fewer than I remember
23 happening. Or this is the -- this is a list of
24 the ones that I reviewed and doesn't reflect the
25 ones that Jonathan reviewed. But I would think

1 it was more of the former.

2 Q. Okay. In terms of this document,
3 the -- just looking at the column headings, the
4 "SharePoint Name," and this has initials followed
5 by numbers, is this a common way that the agency
6 identifies children in its custody?

7 A. Yes.

8 Q. The numbers that are there are the
9 numbers, a portion of their A number?

10 A. Yes.

11 Q. What do you understand "Case
12 Status" to mean, with respect to the second
13 column?

14 A. I would -- this would be release.
15 That would be my guess.

16 Q. Okay. Well, I don't want you to
17 guess. I'm actually asking if you know how it
18 is -- you know, what "Case Status" actually
19 reflects in this column?

20 A. No. I'm not -- I'm not sure what
21 the purpose of this document is.

22 Q. All right. But with respect to
23 "Date Initiated," do you know what that date
24 specifically refers to, the third column?

25 A. No.

1 Q. And the fourth column, "Date OD
2 Decision Sent To Field," do you know what
3 specifically that column heading refers to?

4 A. That would have to be when Jonathan
5 sent my decision to the field.

6 Q. All right.

7 A. If this document is what I think it
8 is.

9 Q. And, namely, a document of your
10 decisions?

11 A. Yes. I have no way of knowing
12 which it is.

13 Q. All right. And when it says "Date
14 OD Decision Sent To Field," what does "OD" refers
15 to?

16 A. Office of the director.

17 Q. Let me direct your attention to an
18 entry that is maybe 10, 12 cases down, "JJ 6847."

19 A. Okay.

20 Q. Do you see that line?

21 A. Yes.

22 Q. Okay. I reads "Moot." Has the
23 date initiated of 6/1/2017?

24 A. Okay.

25 Q. And has "Moot" and says "Voluntary

1 departure 1/16/18"?

2 A. Okay.

3 Q. Do you recall what this case is?

4 A. No.

5 Q. Do you recall a case being in your
6 office for seven months?

7 A. That -- well, decision to be sent
8 to the field. So this voluntary departure would
9 not indicate how long it was in our office.

10 Q. Well, okay. And I only know what I
11 can read from the chart, but on the column for
12 "Decision Sent To Field" it says "Moot"?

13 A. Yes.

14 Q. Suggesting no final decision was
15 made before voluntary departure took place?

16 A. Yes.

17 Q. Which suggests to me that the case
18 was in your office from June 1st till it became
19 moot?

20 A. Right. But what's not clear is
21 when it became moot.

22 Q. All right. Fair enough.

23 But you don't have a recollection
24 of a case being in your office for seven months?

25 A. No.

1 Q. Okay. When you saw this table
2 before, did you review it to see if there were
3 cases that stood out to you in any way one way or
4 the other?

5 A. Yes. If it was the same table, I
6 believe I was looking at for longer instances
7 between date initiated and date OD decision was
8 sent to the field.

9 Q. And why were you looking for those
10 cases?

11 A. Because I was preparing for this
12 testimony and --

13 Q. Okay.

14 A. -- was speculating.

15 Q. Do you recall if it was taking --
16 that most of these cases took far longer than
17 five days?

18 A. No.

19 Q. All right. Well, the chart speaks
20 for itself, so . . .

21 You -- you testified earlier that
22 there were something of the magnitude of 900
23 cases during your tenure that were subject to the
24 policy of director-level review because the child
25 was or had been in secure or staff secure

1 placements?

2 A. 800?

3 Q. That's what you said. There were
4 approximately 600 that would have been in staff
5 secure, about 300 that had been in secure during
6 the course of the year?

7 A. Well, if you asked me, I estimated
8 I had submitted it.

9 Q. That's all right. I'm just
10 reminding you of your estimates.

11 A. Okay.

12 Q. There are 114 cases on this table,
13 more or less. Do you have an explanation about
14 where the other 800 cases are?

15 A. They may not exist. I don't know
16 what this -- what this -- this is an unlabeled
17 list of initials and numbers with case status,
18 date. I mean, we're all looking at it. But I --
19 I do not know what exactly this is.

20 Q. Okay. Setting aside your estimate,
21 and counsel produced to us, in response to an
22 interrogatory, stated that there had been
23 approximately 840 cases subject to the policy,
24 either because they were cases that became
25 subject to the policy after it went into effect,

1 or for cases that, when the policy was put into
2 place, it applied to.

3 So my 800 is exaggerating a little
4 bit, although your estimate may be better than
5 your counsel's estimate. That leaves 727 cases
6 that are not accounted for.

7 A. All right. So the -- your first
8 number was 140?

9 Q. My first number was 841. You've
10 got 114 cases on the table here. That leaves 727
11 cases that were subject to the -- subject to the
12 policy during your tenure that never made it to
13 your office, if this table reflects all the
14 traffic to your office.

15 A. Uh-huh.

16 Q. I hear you saying that may not be
17 the case?

18 A. Right.

19 Q. Other than this table being
20 inaccurate, which is always possible, do you have
21 any explanation as to where -- how is it there
22 could be 727 cases that have not made it to your
23 office?

24 A. That's just a -- no. I think it's
25 an inaccuracy. I also testified that I'm bad

1 with numbers. I typically wouldn't, unless
2 pressed, come up with speculative numbers without
3 some sort of frame of reference.

4 I should also clarify as to when I
5 reviewed this or something like it in the context
6 of attorney-client consultation, which is why it
7 didn't come out during testimony.

8 MR. DUNN: Could you mark this,
9 please.

10 (Lloyd Exhibit Number 9, document
11 entitled: 5a) Total Number of UAC
12 nationwide who may have been subject to
13 the policy (March 25, 2017 to March 31,
14 2018) = 841, bearing Bates Number
15 HHS000225, marked for identification as
16 of this date.)

17 Q. All right. Mr. Lloyd, I'm showing
18 you a document that was produced to us in
19 discovery. It bears the Bates stamp 225. It's
20 actually a response to a discovery request that
21 identifies the number of children subject to the
22 policy. It identifies 841 children.

23 So we don't have to guess. This is
24 a representation made to us by your counsel about
25 the number of children subject to the policy. So

1 let's set the guessing aside, and let's just deal
2 with the facts as we know them. That's the
3 number that was provided to us of cases subject
4 to the policy.

5 We have a table that purports to
6 represent all cases that came to headquarters for
7 director-level review pursuant to the policy that
8 only has 114 cases on it.

9 So, again, I am asking you, as a
10 director of the agency, if you can offer any
11 other explanation as to where the other 727 cases
12 are?

13 A. I don't know how this other
14 document was compiled (indicating). Without
15 having that information, I cannot venture any
16 guess. I have no idea.

17 Q. All right. So just for the record
18 to be clear, when you said "this other document,"
19 you were referring to Exhibit 8, which is this
20 table; is that correct?

21 A. Yes.

22 Q. Okay. Has there been any agency
23 evaluation of this new policy of having
24 director-level review of cases where a child is
25 or has been in a staff -- in a secure or staff

1 secure facility?

2 THE WITNESS: Could you repeat the
3 question?

4 (Record read.)

5 A. Yes.

6 Q. And what was that evaluation?

7 A. The typical policy development
8 process that occurs when new policy is developed
9 in our -- our office.

10 Q. Okay. I'm sorry. So you put the
11 policy in place in March of 2017?

12 A. Yes.

13 Q. What I'm asking, and maybe what you
14 just said is the answer to it, but what I'm
15 asking is, since then has there been any
16 evaluation that you know of conducted by anybody
17 to assess that new director-level review policy?

18 A. Yes and no. No -- no, in the sense
19 that there -- there was a meeting or some sort of
20 decision point where we said, we're going to
21 evaluate this policy. But all of our policies
22 are under constant review to determine how we can
23 improve them and have them work, yeah, very well
24 in our -- our catch phrase is "culture of
25 excellence."

1 And so as with the evolution of
2 the -- of the case writeups, for example, they've
3 improved over time, and so there's an ongoing
4 informal assessment going on in real time.

5 Q. Okay. Is there any formal
6 assessment that's taken place of this policy?

7 A. Well, I would characterize that
8 ongoing assessment as formal.

9 Q. Okay. Has there been a document
10 produced that assesses the policy?

11 A. No.

12 Q. Has there been any compilation of
13 data done for the express purpose of assessing
14 the policy?

15 A. Well, I'm looking at a compilation
16 of the data that does assess the policy.

17 Q. What compilation of data are you
18 talking about?

19 A. The number of nationwide -- so
20 these are compilations that are inherently
21 assessments of a sort.

22 Q. And what compilation are you
23 referring to, I'm sorry?

24 A. Exhibit 9.

25 Q. Exhibit 9.

1 A. Yeah.

2 Q. Okay. Any other compilations that
3 you know of --

4 A. No.

5 Q. -- that are assessments of the
6 policy?

7 A. No.

8 Q. Okay. Have you received any
9 complaints from staff about the policy?

10 A. Yes.

11 Q. What complaints have you received?

12 A. It's in the form of when -- when
13 new staff inherited Jonathan's responsibilities,
14 she -- she said something along the lines of,
15 boy, Jonathan was a real saint doing these
16 reviews.

17 Q. And in what way did you understand
18 it to be a complaint about the policy?

19 A. That it -- that it involves a lot
20 of work.

21 Q. Have you -- do you know any
22 complaints that were made about delays being
23 created by this policy?

24 A. No.

25 Q. Do you know of any complaints that

1 were made by anybody about those few instances
2 where you reversed decisions by the professionals
3 concerning a release recommendation?

4 A. No.

5 Q. Given that you are approving the
6 recommendation in over 95 percent of the cases,
7 according to your testimony, what does your
8 review add to the decision-making process?

9 A. Accountability and visibility. And
10 I would also say that it's the benefit over time
11 of helping leadership and field -- and field
12 staff get on the same page as to what's expected
13 with the release review process.

14 Q. Well, given that you've only
15 reversed decisions in a handful of cases, how
16 does that come to pass?

17 A. Over time people see what I'm
18 looking for and, as I described in previous
19 testimony, some cases from the staff level did
20 not reach my level because the deputy returned
21 them. And over time that -- it's my
22 understanding that that has occurred less often
23 over time.

24 Q. But those are cases, as I
25 understand it, where Jonathan White has made a

1 Q. Anybody else that you recall, other
2 than your lawyers and the two of them, who you've
3 discussed this deposition with?

4 A. Again, just the fact of it. I am
5 in a meet -- or in a deposition today or on
6 Friday.

7 Q. Other than just the fact of the
8 deposition, have you had any conversation with
9 any of your direct substantive staff about this
10 deposition?

11 A. No.

12 Q. Was anybody in your direct staff
13 present in the meetings you had with your
14 lawyers?

15 A. No. I don't recall.

16 Q. Well, there's a difference, of
17 course, between no and I don't recall so --

18 A. Well, I mean, according to my
19 recollection, the answer is no.

20 Q. Okay. All you can testify to is
21 what you recall.

22 A. Okay.

23 Q. All right. With respect to the
24 case itself, what do you understand to be the
25 basic claims in the lawsuit?

1 A. That our review process for release
2 has -- is too long and is resulting in
3 unnecessary delay.

4 Q. And what's your understanding, if
5 any, about what the lawsuit alleges those
6 unnecessary delays are violating as a matter of
7 law?

8 A. The Flores agreement, TVPRA,
9 Homeland Security Act.

10 Q. Okay. And, I'm sorry, I think you
11 said that you have reviewed the complaint; is
12 that correct?

13 A. Uh-huh. Yes.

14 THE COURT REPORTER: Thank you.

15 MR. DUNN: Thank you, Miss.

16 Q. All right. Other than the
17 conversations you already testified to, have you
18 had any conversations with anyone, other than
19 your lawyers, about the lawsuit itself?

20 A. No. Other -- just the fact of it.

21 Q. All right. Let's go, if we can,
22 and just do -- I'm going to ask you a few
23 questions about your background.

24 A. All right.

25 Q. So can you tell me what formal

1 education you've had since high school?

2 A. I have a bachelor's degree.

3 Q. From where?

4 A. James Madison University.

5 Q. What was your major?

6 A. English.

7 Q. Did you have a minor?

8 A. No.

9 Q. All right. And when did you get
10 your BA?

11 A. 2001.

12 Q. After that any formal education?

13 A. Law school.

14 Q. Where'd you go to law school?

15 A. Catholic University of America,
16 Columbus School of Law.

17 Q. And when did you graduate, if you
18 did?

19 A. 2007.

20 Q. Are you admitted to any bars?

21 A. Virginia.

22 Q. Okay. When were you admitted to
23 Virginia?

24 A. 2008.

25 Q. Did you start at Catholic in 2005?

1 A. 2004.

2 Q. Okay. What did you do between
3 graduating from James Madison and starting law
4 school?

5 A. I was a teacher.

6 Q. Where were you a teacher?

7 A. New York City. Oh, and New Jersey.

8 Q. Good for you. Okay. Then you go
9 to law school. Graduated in 2007. You're in the
10 bar in 2008.

11 A. I had a semester of theology as
12 well.

13 Q. And where was that?

14 A. John Paul, III, Institute for
15 Marriage and the Family.

16 Q. And where's that?

17 A. That's in Washington, D.C.

18 Q. Other than that, any formal
19 education after high school?

20 A. No.

21 Q. Okay. When you were at Catholic,
22 did you take any courses that related to either
23 child welfare or immigration?

24 A. Child welfare and immigration.

25 Yeah, not directly.

1 Q. When you were at James Madison, did
2 you take any courses either in child welfare,
3 social work, or immigration?

4 A. Yes.

5 Q. What courses did you take in any of
6 those three areas?

7 A. I prepared -- I had a minor in
8 teaching, secondary education, so everything
9 related to that. Developmental psychology,
10 et cetera.

11 (Reporter-initiated discussion off
12 the record.)

13 Q. How many courses did you take in
14 that area?

15 A. I don't know.

16 Q. Do you have any certifications in
17 the social work or child welfare field?

18 A. No.

19 Q. All right. Beyond your admission
20 to the Virginia bar, are you admitted in any
21 other courts?

22 A. No.

23 Q. Have you actually practiced as a
24 lawyer?

25 A. Yes.

1 Q. What was your practice?

2 A. Well, in the Department of Health
3 and Human Services, general -- and all -- all of
4 my experience or --

5 Q. Well --

6 A. What do you mean by "practice as a
7 lawyer"?

8 Q. I mean hold yourself out to the
9 world as a lawyer and take clients and do other
10 work for those clients.

11 A. Okay. So I worked for the office
12 of general counsel in the Department of Health
13 and Human Services.

14 Q. And when was that?

15 A. 2007 to 2009. If we want to get
16 into the very details, it wasn't until probably
17 2008 that I was in the office of general counsel.
18 I was in ASPE before that.

19 Q. And what's ASPE?

20 A. Assistant secretary for planning
21 and education -- or evaluation, excuse me.

22 Q. And after your time at the office
23 of general counsel, was there any other time in
24 which you practiced as a lawyer?

25 A. Yes. Yes.

1 Q. When was that?

2 A. In -- in the periods after I worked
3 for a private law firm.

4 Q. And what was the law firm?

5 A. It was Wood Maines & Nolan, and it
6 became LegalWorks Apostolate.

7 (Reporter-initiated discussion off
8 the record.)

9 Q. And where's that located?

10 A. Wood Maines & Nolan, it's now a
11 different -- different names, but in Arlington,
12 Virginia. And then LegalWorks Apostolate is in
13 Front Royal, Virginia.

14 Q. After working for them -- and
15 excuse me. What period of time did you work for
16 that firm?

17 A. Yeah. 2009 to 2011.

18 Q. And after that did you practice as
19 a lawyer?

20 A. Yes.

21 Q. And what was that practice?

22 A. Oh, well, yeah. After that it
23 was -- I was in the policy office of Knights of
24 Columbus where I was a policy attorney, but I was
25 not part of the legal team there.

1 Q. All right. And what was the period
2 of time that you would have done that as a policy
3 attorney?

4 A. 2011 to 2006 -- '17.

5 Q. And is that until the time that you
6 came back to the government?

7 A. Uh-huh.

10 A. Yes.

11 Q. Have you ever been the subject of a
12 complaint --

13 A. There's a legal staffing between --
14 sorry. There's one -- one period.

16 A. Between summer -- in 2009 I was
17 working for a legal staffing firm doing temporary
18 employment, legal employment.

19 Q. And on that point, if at any point
20 you remember something, it's fine to stop and
21 we'll go back and fill it in.

22 A Okay

23 Q. Have you been ever -- ever been the
24 subject of a complaint concerning your actions as
25 an attorney?

1 A. -- I don't know. Actually, I've
2 read of a complaint in the media, but never
3 received anything about the complaint.

4 Q. Is the complaint that you read
5 about a complaint that was, at least according to
6 the media account, filed before or after you
7 returned to the government in 2017?

8 A. After.

9 Q. Okay. So before that --

10 A. No.

11 Q. All right. Just to be clear for
12 the record, the complete question was going to be
13 before that is it correct that you were -- at
14 least don't know of any complaints that were
15 filed against you in terms of your activities as
16 an attorney?

17 A. That's correct.

18 Q. Okay. Have you ever published any
19 articles concerning social work or child welfare?

20 A. No.

21 Q. Have you ever published anything
22 concerning immigration? You need to --

23 A. I'm thinking.

24 Q. Oh. I'm sorry.

25 A. No. Yes. Well, no. Sorry. Not

1 immigration.

2 Q. All right. What have you
3 published --

4 A. Displacement.

5 Q. Displacement, okay.

6 So what do you mean by
7 "displacement"?

8 A. Displacement and war crimes.

9 Q. All right. And what did you
10 publish on that topic?

11 A. I contributed to a report that --
12 while working for the Knights of Columbus. I'm
13 trying to recall when they move -- of the report.
14 Well, I -- I don't know. Having to do with
15 genocide of Christians in the Middle East.

16 Q. Any other publications that you
17 recall as we sit here?

18 A. No.

19 Q. All right.

20 A. Regard -- regarding immigration,
21 no.

22 Q. Regarding anything?

23 A. Yeah.

24 Q. I asked you initially about social
25 work and immigration, and then you said there's

1 this one piece that you mentioned about
2 displacement and war crimes. Sounds right.

3 Now what I'm asking you is, beyond
4 those topics, have you otherwise published?

5 A. Yes.

6 Q. What publications do you have?

7 A. There -- there -- there's a number
8 of them. I worked for a while for -- well, not
9 work, but contributed to the online journal
10 Ethica Politika with a regular column. Other, I
11 guess you could say, one-offs and -- yeah,
12 other -- other one-offs throughout a number of
13 different publications.

14 Q. Have you ever publicly spoken about
15 child welfare or social work issues?

16 A. Child welfare or social work. Are
17 we including teaching in this or --

18 Q. If you taught in those two areas,
19 yes, I would include that.

20 A. No. I mean, as a teacher, does
21 it -- experience as a teacher.

22 Q. Well, I'm talking about public
23 presentations, if you -- that you --

24 A. No. No.

25 Q. And I take it, when you're talking

1 about teaching, you're talking about teaching
2 that took place in New York City?

3 A. Uh-huh.

4 Q. Okay.

5 A. Yes.

6 THE WITNESS: Sorry.

7 Q. What grades were you teaching then?

8 A. Yes.

9 THE WITNESS: Sorry.

10 A. Elementary school. Third through
11 eighth and fifth through eighth.

12 Q. Have you made any public
13 presentations about immigration issues?

14 A. Displacement issues.

15 Q. And what public presentations have
16 you made about displacement issues?

17 A. "We Are All Infidels Now." As part
18 of CPAC, I was asked to join a panel.

19 Q. And is "We All Infidels Now" the
20 title of the presentation?

21 A. It's the title of the panel.

22 Q. And when was that?

23 A. 2016. Also I was part of a panel
24 for the international roundtable for religious
25 freedom, was I believe the -- the name of the

1 organization. This is on the Hill. It was a
2 day-long conference and I was part of a panel
3 with a number of -- well, a victim of ISIS and
4 other policy people.

5 Q. And when approximately was that?

6 A. March of 2016. May have been
7 April.

8 Q. Okay.

9 MR. DUNN: Can you mark that as
10 Lloyd Exhibit 1.

11 (Lloyd Exhibit Number 1, copy of
12 Lloyd résumé with addendum, two pages,
13 marked for identification as of this
14 date.)

15 Q. Mr. Lloyd, we've handed you a
16 document, a two-page document. It's a
17 double-sided page. It bears what appears to be
18 your name on the top of it.

19 Do you recognize this document?

20 A. Yeah.

21 Q. What is this?

22 A. This is my résumé with -- with an
23 addendum.

24 Q. I'm sorry, with a what?

25 A. An addendum.

1 Q. Okay. Do you recognize this
2 particular version of the document, namely, with
3 the addendum?

4 A. I've never seen it with the
5 addendum copied and pasted, no. The addendum
6 being "Dear," redacted. "Thank you for the call
7 earlier." Starting there.

8 Q. On the bottom of the second page?

9 A. Yeah. I didn't write that.

10 Q. And is that text from what appears
11 to be an email from you?

12 A. Yeah.

13 Q. Okay. Could you take a moment and
14 look at this. And I just want to ask you if you
15 could confirm everything on this résumé is
16 accurate.

17 A. It says "Humor Columnist," but I
18 just found those articles and they're not very
19 funny.

20 Q. Well, I appreciate your sense of
21 humor about that. On that point, at least at the
22 time, was it in fact fair to characterize your
23 column as a humor column?

24 A. There -- there were attempts at
25 humor, yes.

1 Q. Okay.

2 A. Okay. It looks accurate. I don't
3 see anything that's been altered.

4 Q. Okay. And is there anything of
5 significance, in terms of your career, up until
6 the point where the résumé ends that is omitted
7 from this?

8 A. Oh. That's a very general
9 question. But very general, this -- this grabs
10 the highlights.

11 Q. Okay. Do you have any social media
12 accounts?

13 A. I don't know. I think I have a
14 LinkedIn account that's fallen into disuse. And
15 I -- I don't know if I still have a Twitter or --
16 none that I use.

17 Q. Does your LinkedIn account still
18 exist in your name?

19 A. I believe so.

20 Q. All right. So would that be -- is
21 that Edward Scott Lloyd? E. Scott Lloyd? Scott
22 Lloyd? Do you know?

23 A. I -- I don't know. I don't visit
24 it. I haven't visited it. I -- I think last
25 time I visited it was right around when I was

1 applying for this job. But if I were to try to
2 sign in, I wouldn't remember the password or
3 anything like that.

4 Q. The curse that we all face?

5 A. Yeah.

6 Q. All right. You mentioned Twitter.

7 What's your Twitter handle, if you know?

8 A. I don't know.

9 Q. If you needed to find it, could
10 you?

11 A. It would be very difficult.

12 Q. Have you ever had a Facebook
13 account?

14 A. Yes.

15 Q. Is it still active?

16 A. No.

17 Q. Okay. Do you know what your
18 public-facing identification was on your Facebook
19 account?

20 A. Yes.

21 Q. What was it?

22 A. Scott L.

23 Q. What period of time did you have a
24 Facebook account?

25 A. I don't know when I signed up. I

1 think it was in 2006-ish.

2 Q. And do you know when you closed it,
3 if that's what you did?

4 A. Winter of 2016, 2017.

5 Q. And why did you close it?

6 A. I don't like Face -- I don't like
7 Facebook. And it's -- it's something that I just
8 tried to stay away from and then decided to get
9 off of it, especially as I was heading into
10 government work.

11 Q. Any other social media accounts
12 that you can think of?

13 A. No. None that are active.

14 Q. Well, let's set aside anything
15 that's active.

16 Have you ever had any other social
17 media accounts?

18 A. Like Myspace, random.

19 Q. Okay. Do you happen to remember
20 what your account name was --

21 A. No.

22 Q. -- for your Myspace account?

23 A. No.

24 Q. That was a long time ago?

25 A. Yeah.

1 Q. Okay. Other than your government
2 email, do you have any email accounts?

3 A. Yup.

4 Q. What are your email accounts?

5 A. I've got a Gmail account and a
6 Yahoo account.

7 Q. All right. What are your -- what's
8 your Gmail address?

9 A. Edwardscottlloyd.

10 Q. No spaces?

11 A. Right.

12 Q. And what about your Yahoo account?

13 A. Edwardscottlloyd.

14 Q. Have you ever used either of those
15 accounts to -- for any professional purposes,
16 starting with your position at ORR?

17 A. Yes. I was -- I was having trouble

18 as my account was getting set up upon first going
19 into the government where -- because my first
20 name is Edward and my middle name is Scott.

21 My -- my official account became -- went into
22 disuse, and some people copied me on some email
23 traffic to my personal account and made note of
24 it. And I've since migrated all of that to my
25 work account.

1 Q. Okay. Are these two accounts, the
2 Gmail account and the Yahoo account, still
3 active?

4 A. Uh-huh. Yes.

5 Q. Do you have any other email
6 accounts?

7 A. Yes.

8 Q. What are they?

9 A. S -- s.thomas.martin@gmail.com.

10 Q. And what's your connection to that
11 account?

12 A. It's a -- it was a contemplated
13 pending.

14 Q. That's a currently active account?

15 A. Uh-huh. Yes.

16 Q. Do you have any other email
17 accounts?

18 A. I don't think so.

19 Q. Do you use any text service?

20 A. I didn't hear the --

21 Q. Text. Do you use any text service?
22 Do you text?

23 A. Text?

24 Q. Texting on your phone.

25 A. Oh, okay. Yeah, just Apple and

1 WhatsApp. And whatever the government provides
2 that looks like Apple.

3 THE COURT REPORTER: Whatever the
4 government provides . . .

5 THE WITNESS: I'm sorry. That
6 looks like Apple's app.

7 Q. So you have a text service that's
8 provided by the government that you can use for
9 your work purposes; is that correct?

10 A. Well, so if you look -- if you look
11 at an Apple iPhone, rather than using Apple's
12 email, you use the government's mail through --
13 and I think that texting is just the Apple app.
14 But the contacts don't talk to each other.

15 So out of an abundance of caution
16 I'm just telling you what --

17 Q. Caution's always a good idea.

18 A. -- looks like Apple.

19 Q. All right. Do you use any sort of
20 encrypted text service like Signal?

21 A. I -- I use WhatsApp.

22 Q. So does that mean you do not use
23 anything other than WhatsApp for texting?

24 A. Right. Yes.

25 Q. Okay. And since this is a service

1 provided by the government, would it be fair to
2 say that you use that service for doing business
3 in your position as the director of ORR?

4 A. The Apple, yes, but not the
5 WhatsApp. That's -- I use that in my personal
6 capacity.

7 Q. Okay. All right. All right. I'm
8 going to ask you about -- some few basics about
9 your agency.

10 So you're in the Department of
11 Health and Human Services; is that correct?

12 A. Yes.

13 Q. Okay. Can you just, ballpark, give
14 me a sense of how you fit into the structure --
15 and by "you" I mean the office of refugee
16 resettlement -- into the DHHS structure?

17 A. The office of refugee resettlement
18 is part of the administration for children and
19 families, which is part of the department.

20 Q. All right. So is the 30,000-foot
21 structure the department administrations
22 including ACS, and then offices including your
23 office?

24 A. Uh-huh.

25 Q. Okay.

1 A. Yes.

2 Q. Do you know why it is that ORR is
3 part of HHS?

4 A. Yes.

5 Q. Why is it?

6 A. This was the desire of Congress in
7 the Homeland Security Act.

8 Q. Okay. And do you recall when they
9 moved ORR into HHS?

10 A. 2002 was the statute, but I think
11 it didn't occur 'til 2003.

12 Q. And what's your understanding as to
13 why Congress wanted to move ORR into HHS?

14 A. It had been with INS. INS was
15 disappearing is one part of it. And then the
16 other part of it is because they wanted a child
17 welfare structure for unaccompanied alien
18 children in government custody.

19 Q. All right. And would it be fair to
20 say they wanted a child welfare structure instead
21 of a law enforcement structure?

22 A. Yes.

23 Q. Okay. What do you understand to be
24 the mission of ORR?

25 A. Well, we have three programs. The

1 pro -- the -- for the administration of refugee
2 resettlement program, it's to serve refugees.
3 For unaccompanied alien children program, it's to
4 serve unaccompanied alien children. And for the
5 repatriation program it's to serve repatriated
6 Americans.

7 Q. Okay. With respect to the second,
8 which I'll just refer to as the UC program, if
9 you will, beyond the broad notion of serving
10 children, do you have a more specific sense of
11 what the mission of the agency is with respect to
12 that population?

13 A. Yes.

14 Q. What is that?

15 A. To care for them, pending their
16 release.

17 Q. Can you give me a sense of how ORR
18 is generally structured?

19 A. Yes.

20 Q. Please do.

21 A. We -- well, we have a number of
22 directors who report to me, but the simplest way
23 to put it is that the program is to -- is divided
24 into its main elements. The refugee
25 resettlement. And so the refugee resettlement

1 takes care of that function and not -- typically
2 the UAC function. And there's a deputy director
3 who oversees that and reports to me.

4 And then similarly, with the
5 unaccompanied alien children program, there's
6 a --

7 THE COURT REPORTER: With the?

8 THE WITNESS: -- unaccompanied
9 alien children program.

10 A. -- our deputy director oversees it
11 and reports to me. And with the repatriation
12 program the repatriation specialist reports me as
13 well. And also the URM program unaccompanied
14 refugee minors program. But that sort of sits in
15 the refugee function.

16 Q. All right. So there are these
17 deputy directors that report to you, and I
18 understand they are heading the three separate
19 programmatic areas that you have?

20 A. Uh-huh.

21 Q. Can you continue to describe the
22 way ORR is organized, both in terms of what I
23 understand you refer to as headquarters, in
24 addition to whatever field components you have?

25 A. Sure. So the -- and are we

1 speaking all -- or just unaccompanied alien
2 children?

3 Q. Let's first just talk generally
4 across all the programs.

5 A. Okay. So the repatriation program
6 is really run mostly out of headquarters. The
7 unaccompanied alien children program has field
8 staff. There's federal field staff supervisors
9 who oversee a number of federal field
10 specialists.

11 The refugee program, it's
12 administered through a regional structure that
13 mirrors the ACF region, regional structure.

14 Q. Okay. So with respect to the UC
15 program, let's focus on that now.

16 A. Uh-huh.

17 Q. So there -- you said there are
18 supervisors in the field and they supervise FFSSs;
19 is that correct?

20 A. Yes.

21 Q. Okay. So how many supervisors are
22 there?

23 A. Right now we have five.

24 Q. And are they geographically
25 assigned?

1 A. Yes.

2 Q. What are the geographic areas?

3 A. North -- generally, North --
4 Northeast, South -- or Northeast, Southeast,
5 Southwest, Northwest. I don't have the -- the
6 names of each geographic region committed to
7 memory.

8 Q. Who's the current supervisor for
9 the area that encompasses New York?

10 A. Elcy.

11 Q. That's Elcy Valdez?

12 A. Yes.

13 Q. Does she have supervisory
14 responsibility for areas outside of New York?

15 A. Yes.

16 Q. What are the other areas?

17 A. There are other areas throughout
18 the Northeast and the Mid-Atlantic.

19 Q. Okay. Do you know how many FFSSs
20 she supervises?

21 A. I don't have that committed to
22 memory.

23 Q. Do you have an approximation?

24 A. Between eight and 12.

25 Q. Okay. How many total employees do

1 you have in the UC program?

2 A. 150.

3 Q. And how many of them are in
4 headquarters as opposed to the field?

5 A. I don't know.

6 Q. Do you have an approximate size?

7 A. Not a very good one.

8 Q. Can you just tell me what the
9 step-by-step chain of command is between you and
10 Ms. Valdez.

11 A. Sure. It -- it's me, the deputy
12 director, and then Elcy.

13 Q. Have you had any conversations with
14 Ms. Valdez about this lawsuit?

15 A. No.

16 Q. Have you had any conversations with
17 her about this deposition?

18 A. No.

19 Q. As far as you know, does she know
20 that you're being deposed today?

21 A. I don't know.

22 Q. Who's the current deputy director?

23 A. Jallyn Sualog.

24 Q. Could you spell that, please?

25 A. J-A-L-L-Y-N.

1 Q. And the last name?

2 A. Sualog. S-U-A-L-O-G.

3 Q. And how long has -- I'm sorry, is
4 it a Mr. or Ms.?

5 A. Ms.

6 Q. -- Ms. Sualog been the deputy
7 director?

8 A. She's acting right now. Since
9 March 15th, I believe.

10 Q. And who's her predecessor?

11 A. Jonathan White.

12 Q. And why is Mr. White no longer in
13 that position?

14 A. He left.

15 Q. Did he leave the government?

16 A. No.

17 Q. Where has he gone?

18 A. To another part of the department.

19 Assistant secretary for planning and respon --
20 preparedness and response.

21 Q. And just to be clear, when you say
22 "the department," you're talking about HHS?

23 A. Yes.

24 Q. Okay. What role, if any, did you
25 have in his departure?

1 A. I don't know.

2 Q. Did anyone ever speak to you about
3 him being moved out of his position?

4 A. Jonathan told me that he accepted
5 another position elsewhere.

6 Q. Was that the first you learned of
7 the possibility of him no longer being your
8 deputy?

9 A. Yes.

10 Q. So is it your understanding that
11 he, without talking to you, applied for another
12 position and then accepted it, and then informed
13 you of that?

14 A. Yes.

15 Q. All right. To whom do you report?

16 A. To Steve Wagner.

17 Q. And who is Steve Wagner?

18 A. He's the acting assistant secretary
19 for ACF.

20 Q. All right. How often do you meet
21 with him?

22 A. At least weekly.

23 Q. And do you provide him with any
24 reports?

25 A. Yes.

1 Q. What reports do you provide him?

2 A. At our weekly meeting, we discuss
3 all of the details of -- well, all of the
4 pressing issues in the refugee -- all of the
5 programs that we oversee.

6 Q. When's the last time you met with
7 him?

8 A. I -- I was not able to attend, due
9 to travel, our Tuesday meeting. So last Tuesday.
10 Although I spoke with him on the phone yesterday,
11 I believe.

12 Q. All right. So do you have a
13 regular Tuesday meeting with him?

14 A. Yes.

15 Q. Is that just the two of you or are
16 there other people in that meeting?

17 A. Other people.

18 Q. Who are the other people in that
19 meeting?

20 A. Jallyn usually -- Jallyn and Ken,
21 who's the deputy director for a refugee program.
22 My -- my special assistant. Usually -- sorry,
23 Joann Simmons, our budget director. Amanda
24 Barlow, who is director of OLAB.

25 THE COURT REPORTER: Director of?

1 THE WITNESS: OLAB, O-L-A-B.

2 Office of legislation and budget.

3 A. Brian Marriott, who is our director
4 of communications. Anna Pilato, who is the
5 assistant secretary for public affairs. Mary
6 Powers, who is political adviser for the office
7 of the assistant secretary. And Maggie Wynne
8 usually attends or she sends Andrew Smith, who's
9 her subordinate.

10 Q. And, I'm sorry, who's Ms. Wynne?

11 A. She's counselor for the secretary.

12 Q. For the secretary?

13 A. Yeah.

14 Q. Okay. And is it the standard
15 practice of all these people to attend meetings?

16 A. Yes.

17 Q. The meetings?

18 A. Yeah.

19 Q. I mean, I understand, there will be
20 some meetings where not all of them are
21 necessarily there, but that's the normal group?

22 A. Yeah.

23 Q. All right. How long is the
24 meeting?

25 A. Hour, hour and 15 minutes.

1 Q. And where does it take place?

2 A. In the conference room of the
3 assistant secretary.

4 Q. At this meeting has there ever been
5 a discussion about this lawsuit?

6 A. If so, only the fact of it. I
7 don't -- I don't know is probably the better
8 answer.

9 Q. All right. Fair enough. Let's
10 take another crack at it. As you sit here today,
11 do you recall any time at this meeting this
12 lawsuit being discussed?

13 A. No.

14 Q. Does Mr. Wagner know that you're
15 being deposed?

16 A. Yes.

17 Q. How does he know that?

18 A. Just, you know, in conversation I'd
19 say, "I'm not available Friday. I'm being
20 deposed."

21 Q. Do you have regular dealings with
22 him?

23 A. Yes.

24 Q. Would those be daily dealings at
25 times?

1 A. Up to daily.

2 Q. Are you physically close to him in
3 terms of where your office is?

4 A. Yes. Yes. He's in the floor below
5 me.

6 Q. You mentioned that you were unable
7 to meet with him this week but you had a
8 conversation with him?

9 A. Yes.

10 Q. In that conversation was there any
11 discussion either about this lawsuit or your
12 deposition?

13 A. No. Just to re -- I -- that may
14 have been one of the times I reminded him that
15 I'm in a deposition today.

16 Q. At these regular Tuesday meetings,
17 is there any document that you bring to the
18 meeting or provide in anticipation of the meeting
19 about any aspect of the UC program?

20 A. An agenda for the meeting.

21 Q. Other than that, do you provide, in
22 conjunction with the meeting, any document that
23 talks about any aspect of the UC program?

24 A. Not as a routine matter, no.

25 Q. As a nonroutine matter, what sort

1 of documents have you from time to time provided
2 for purposes of this meeting about the UC
3 program?

4 A. Decision memos on proposed changes
5 and background memos on different aspects of the
6 program.

7 Q. All right. When you talk about
8 decision memos about proposed changes, are you
9 talking about proposed changes in policy?

10 A. Yes.

11 Q. Does it cover other things beyond
12 policy?

13 A. Just operations.

14 Q. And you said background memos.

15 What were you referring to when you
16 were talking about background memos?

17 A. Sometimes it's necessary to
18 describe why something is the way that it is, so
19 we would just prepare a background memo to
20 clarify that.

21 Q. All right. Do you recall, in the
22 time that you've been the director, ever
23 providing a background memo about any aspect of
24 the UC program?

25 A. Yes.

1 Q. What were those memos about?

2 A. Just -- just the fact of them.

3 Q. Okay. Can you recall for any of
4 them the topic of the memo?

5 A. Yeah. I mean, they -- they would
6 fall squarely in the deliberative space.

7 Q. Okay. So I know you're a lawyer.
8 Michael's the one that gets to express the
9 objections. So I'm not asking for the content of
10 them beyond the topic.

11 So can you recall the topic of any
12 of these background memos, to the extent they
13 relate to the UC program?

14 A. Capacity.

15 Q. Okay. Anything else that you
16 recall as a topic?

17 A. Community safety.

18 Q. Anything else?

19 A. No. It's really just different
20 aspects of capacity. Budget.

21 Q. Do you recall at this meeting ever
22 discussing the time it was taking to release
23 children in the UC program from ORR custody?

24 A. No.

25 Q. Have you ever provided, in

1 conjunction with these meetings, any data or
2 other information for how long it's taking for
3 children to be released from ORR custody who are
4 in the UC program?

5 A. Yes.

6 Q. And what was that information or
7 data?

8 A. Just often we quantify in a number
9 of contexts. We -- we quantify overall release,
10 like the average release period or time in
11 cust -- custody.

12 Q. Okay. What's the most recent time
13 you recall providing that type of information in
14 conjunction with this meeting?

15 A. I don't know.

16 Q. Okay. Can you recall any instance,
17 setting aside date, when you provided this sort
18 of information?

19 A. Yes. I don't -- I don't recall the
20 context.

21 Q. Okay. What do you recall, if any,
22 about the form in which the data were presented?

23 A. Usually just a graph.

24 Q. Who prepares that graph?

25 A. We have staff in the UAC program

1 who are able to crunch numbers and things for
2 that.

3 Q. Okay. Can you describe for me, for
4 any particular instance, setting aside the date,
5 what particular types of information were on that
6 graph?

7 A. It -- it would be average -- or
8 average length of stay, probably going back for a
9 few years.

10 Q. And does that graph break out
11 different categories of children who are in
12 custody?

13 A. Yeah. It would be by -- by
14 category of -- of sponsorship.

15 Q. And what do you mean by that?

16 A. We have different categories of
17 sponsor. And when we break that information out
18 we break it out according to sponsor.

19 Q. And so what are the categories you
20 have?

21 A. Category one is sponsorship by
22 parents. Category two is related adult, not
23 parent. Category three is unrelated adult.
24 Category four is no sponsorship prospects.

25 Q. What do you remember about what the

1 average length of stay was, for the time that you
2 recall, setting aside the date again, for each of
3 these four categories?

4 A. I -- I have it in my mind as the
5 overall picture, not category by category.

6 Q. All right. What's the overall
7 picture you have in your mind?

8 A. It's been roughly steady at 45
9 days.

10 Q. And that's 45 days from when to
11 when?

12 A. From referral to release.

13 Q. And when you say "referral," what
14 are you referring to?

15 A. This is when one federal agency,
16 usually is Customs and Border Patrol, sometimes
17 it's ICE, and it could be others, Coast Guard,
18 for example, transfers custody from -- from
19 themselves to us.

20 Q. I see. All right. So that's the
21 period of time between when ORR receives the
22 child, if you will, in custody and ORR releases
23 the child in at least -- well, releases the
24 child?

25 A. Yes. To a sponsor.

1 Q. To a sponsor. So that, by
2 definition, I take it, would involve categories
3 one through three?

4 A. Yes.

5 Q. Okay. All right. And when you say
6 it's held relatively steady at 45 days, over what
7 period of time are we talking about in terms of
8 the holding steady?

9 A. Since coming on.

10 Q. Since your coming on to your
11 position?

12 A. Yes.

13 Q. Okay. Beyond average length of
14 stay, any other data on these graphs?

15 A. No.

16 Q. Okay. And when you say it's a
17 graph, are we talking about like a one page --

18 A. It's a chart.

19 Q. A chart?

20 A. Yeah. It doesn't take up a page.

21 Q. It doesn't even take up a page?

22 A. No. Put it in the middle of the
23 page.

24 Q. All right. Are there other things
25 on the page or that's just it?

1 A. Yeah. What I'm describing is -- is
2 information that we've put in a number of memos
3 and, you know, FOIA requests and media inquiries.
4 So we see that information a lot.

5 Q. All right. Going back again, and
6 we're talking about these meetings that take
7 place every Tuesday, is there any other data that
8 has been presented, even if only once or twice,
9 concerning children in the UC program?

10 A. Yes.

11 Q. What's the other data?

12 A. Well, for example, country of
13 origin is something that we . . .

14 Q. Anything else you can think of?

15 A. Let's see what I can think of. We
16 also -- we produce daily reports about our
17 capacity, the number of beds that we have.

18 Q. And are those sometimes provided in
19 conjunction with this meeting?

20 A. Yes. Every time. How many beds we
21 have. How many are occupied. How many are in
22 each of our categories of beds.

23 Q. Any other data?

24 A. Release trends.

25 Q. And what do you mean by "Release

1 trends"?

2 A. Or, excuse me, referral trends and
3 release trends. These would be the trends of how
4 many UAC have exited our program in a day. And
5 there's trends over a period of time. How many
6 are referred into our program, and those trends
7 over a period of time. Capacity versus --
8 overall capacity versus encumbered capacity and
9 those trends over time, and so on.

10 MR. BYARS: Mr. Dunn, are we at a
11 good point for a break or would that be coming up
12 pretty soon?

13 MR. DUNN: If you'd like to take
14 break, that's fine.

15 THE VIDEOGRAPHER: Going off the
16 record at 10:34.

17 (Recess taken.)

18 THE VIDEOGRAPHER: We are going
19 back on the record at 10:43. This begins disk
20 No. 2.

21 BY MR. DUNN:

22 Q. Mr. Lloyd, you mentioned that at
23 this regular Tuesday meeting your special
24 assistant attends. Who is that person?

25 A. Amanda Dukes.

1 Q. Is she an administrative -- excuse
2 me. Is she a substantive person or an
3 administrative person?

4 A. Administrative.

5 Q. At the meeting do you recall ever
6 having been provided any reports that
7 identifies --

8 A. I -- I should also say there's
9 another special assistant who's on maternity
10 leave, Laura White.

11 THE COURT REPORTER: What's the
12 name?

13 THE WITNESS: Laura White.

14 A. Who is able to -- she -- she does
15 have some substantive knowledge of things.

16 Q. At these meetings do you recall
17 ever having provided, beyond average length of
18 stay, information concerning the duration that
19 children in the UC program have been in ORR
20 custody?

21 A. I don't -- no.

22 Q. Who prepares those graphs that you
23 referred to?

24 A. It's our UAC staff. Usually it's
25 Olympia Belay, B-E-L-A-Y, who is tasked with

1 that.

2 Q. Beyond your meetings with
3 Mr. Wagner, do you have any meetings with people
4 higher up in the hierarchy?

5 A. Yes.

6 Q. And what are those meetings?

7 A. Any number of meetings. Having to
8 do with the refugee or the UAC or the
9 repatriation program. And they could be with a
10 number of personnel depending on the topic.

11 Q. Do you recall any meetings
12 particularly about the issue of how long children
13 are remaining in ORR custody who are in the UC
14 program?

15 A. Not on that specific topic, no.

16 Q. Do you recall any such meetings
17 that have discussed this lawsuit?

18 A. No.

19 Q. Have you had any dealings since you
20 came to your current position with anyone in the
21 White House?

22 A. Yes.

23 Q. And what are those dealings?

24 A. Just various interactions related
25 to the programs we run.

1 Q. Is there someone in particular
2 who's a contact for you there?

3 A. Usually we reach out to -- yes.

4 Q. Who is that person?

5 A. John Zadrozny.

6 THE COURT REPORTER: Spell the last
7 name, please.

8 THE WITNESS: Z-A-D-R-O-Z-N-Y.

9 Q. And what do you understand
10 Mr. Zadrozny's responsibilities to be in the
11 White House?

12 A. He is on the staff of the domestic
13 policy council related to immigration and issues.

14 Q. Have you ever had any conversations
15 with him about the length of time that children
16 are remaining in ORR custody?

17 A. Where that was -- no. Not where
18 that was the focus of the conversation.

19 Q. Well, do you recall any instance
20 where that was a topic of the conversation?

21 A. It was sort of an incidental
22 relating to the background and the operations of
23 the UAC program.

24 Q. And what do you specifically recall
25 discussing with him about the length of time

1 children were remaining in ORR custody?

2 A. Probably just would be included
3 in -- in that graph.

4 Q. How often have you spoken to him?

5 A. I don't know.

6 Q. Can you approximate?

7 A. Yes.

8 Q. Approximately how often?

9 A. Once every month.

10 Q. And do you have a regularly
11 scheduled form of interaction with him, be it a
12 meeting or something else?

13 A. No.

14 Q. Do you from time to time email with
15 him?

16 A. Yes.

17 Q. Have you met with him in person?

18 A. Yes.

19 Q. How recently did you meet with him
20 in person?

21 A. He was at a meeting that I attended
22 on Monday.

23 Q. And what was the subject of that
24 meeting?

25 A. Immigration policy.

1 Q. And what discussion was there, if
2 any, about children in the UC program?

3 A. Capacity.

4 Q. And by "Capacity," do you mean the
5 agency's capacity to have children in its
6 custody?

7 A. Bed capacity to -- for the kids to
8 stay in.

9 Q. All right. And was this
10 particularly in a category of placement? For
11 instance, secure?

12 A. No.

13 Q. Just about capacity in general?

14 A. Yes.

15 Q. Okay. And is the -- well, was
16 the -- more specifically, a discussion about
17 increasing capacity?

18 A. Reporting out on our general
19 situation regarding capacity.

20 Q. And what did you report?

21 A. Our current capacity. And
22 prospects for getting more capacity.

23 Q. And what specific did you report
24 about your current capacity and your prospects
25 for getting more capacity?

1 A. Whatever the numbers were on
2 Monday, and the general possibilities of bringing
3 on more capacity.

4 Q. All right. And is that prompted by
5 a expectation you would have more children coming
6 into ORR custody?

7 A. Yes.

8 Q. Is that an ORR expectation or an
9 expectation from some other place?

10 A. It -- it's an expectation that's
11 widely held among people who are seeing the
12 current referral rates.

13 Q. What is the current number of
14 children who are in ORR custody?

15 A. It's about 8500.

16 Q. And given the referral rates that
17 you're referring to, what is the projection about
18 what's going to happen to that number in the
19 future?

20 A. It's going to continue to climb.

21 Q. And do you know what is driving
22 that climb?

23 A. It's our referral rate over our
24 discharge rate.

25 Q. So is that a function of both your

1 having more referrals and fewer discharges?

2 A. Both fluctuate, but generally
3 there's been more referrals lately. And
4 discharge has been roughly steady with dips
5 recently.

6 Q. And what are the particulars of the
7 dips in the discharge?

8 A. Technol -- technolog -- technology
9 concerns, holidays.

10 Q. What are --

11 A. It ebbs and flows.

12 Q. Right.

13 A. Generally.

14 Q. Do you have a sense of the
15 numerical particulars of the recent dips?

16 A. Well, so our release per 100 UAC in
17 care went from the 1.4 range down to the .7
18 range. This is daily. And then back up to 1.2,
19 1.3.

20 Q. When did it go from 1.4 to .7,
21 approximately?

22 A. Between now and the beginning of
23 the Easter holiday.

24 Q. Easter holiday of last year?

25 A. No. This past Easter holiday.

1 Q. Okay. So is this something you
2 track on a regular basis?

3 A. Every day.

4 Q. Every day?

5 A. Yeah.

6 Q. All right. Do you get a written
7 report about that every day?

8 A. Yup. Yes. With many of the graphs
9 we discuss.

10 Q. All right. Well, we talked about
11 one graph. What other graphs do you get?

12 A. I mentioned all the graphs that I
13 can recall.

14 Q. Well, you mentioned the length of
15 stay graph?

16 A. Uh-huh.

17 Q. The average length of stay?

18 A. It's -- it's different -- well, no.
19 And I also mentioned referrals and discharges and
20 general capacity. All that's put into graph --
21 graph form.

22 Q. I understand. Okay.

23 And who is producing the daily
24 release ratio, if you'll excuse the expression,
25 information that you just mentioned?

1 A. It's our data team in the
2 unaccompanied alien children program.

3 Q. Okay. All right. Other than the
4 issue of meeting more capacity at the meeting on
5 Monday with Mr. Zadrozny, any other aspects of
6 the UC program that you discussed?

7 A. Yes. Potential policy
8 developments.

9 Q. And what are they?

10 A. They -- they remain potential, and
11 I would ask that remains deliberative.

12 MR. BYARS: Are you asking for
13 deliberations, Mr. Dunn?

14 MR. DUNN: I'm just asking for the
15 topics. Just the topic.

16 Q. What's the topic of potential
17 policy developments?

18 A. Again, capacity. And, I don't
19 know, legal processing.

20 Q. And just as a topic, what do you
21 mean by "legal processing"?

22 A. Immigration courts. UAC and
23 immigration courts.

24 Q. Who else was in this meeting?

25 A. There -- there were a lot of

1 people.

2 Q. Okay.

3 A. It was people from the interagency
4 and national security council and domestic policy
5 council.

6 Q. I'm sorry, interagency, domestic
7 policy council. What else did you mention?

8 A. National security council.

9 Q. Approximately how many people were
10 at this meeting?

11 A. 25.

12 Q. And where did the meeting take
13 place?

14 A. Executive office building.

15 Q. Do you recall ever having provided
16 to Mr. Zadrozny any information about the length
17 of time of children remaining in ORR custody?

18 A. I don't recall a specific instance.
19 I'd be surprised if I've not shared generally
20 that information.

21 Q. Have you ever talked to him about
22 this lawsuit?

23 A. No.

24 Q. Anyone else at the White House with
25 whom you've had interactions, other than just

1 administrative things, concerning the UC program?

2 A. Yes.

3 Q. Who was that?

4 A. David Wedmore [ph] is no longer
5 there.

6 Q. What was his position?

7 A. He was -- he was part of the
8 domestic policy council overseeing immigration
9 concern.

10 Q. All right. Anybody else?

11 A. Well, so the original question is
12 all the people that I've met with from the White
13 House concerning --

14 Q. Any aspect of the UC program.

15 A. Zena Bash, who's no longer there.

16 Q. And what was his or her position?

17 A. It's -- it's the same. Oh, no.

18 She was -- I think she was a specialist assistant
19 to Steven Miller.

20 THE COURT REPORTER: A specialist?

21 THE WITNESS: Special assistant or
22 policy adviser.

23 Q. To whom?

24 A. Steven Miller. Steven Miller.

25 Justin Bristow. These are big meetings. There

1 are some people from other departments. So I'm
2 just trying to think if there's anybody else from
3 the White House. Another person from the NSC
4 whose name I can't recall right now.

5 Q. What conversations did you have
6 with Mr. Miller about the UC program?

7 A. Background.

8 Q. Did you have any conversations with
9 him about any aspect of the release of children
10 in the UC program from ORR custody?

11 A. Yes.

Q. What were those conversations?

13 A. How it occurs. Background on
14 release.

15 Q. Beyond information about how it
16 occurs, any conversations you recall with him
17 about release?

18 A. Yeah.

19 Q. What are those?

20 A. Delib -- deliberative policy
21 discussions.

22 (Reporter-initiated discussion off
23 the record.)

Q. All right. So let's just stick to
the topics. I understand the point about

1 privilege. You mentioned as a topic information
2 about the process. What are the topics that
3 you've discussed with him?

4 A. Capacity. And the overall UAC
5 program.

6 Q. Any conversations with him about
7 policies governing release of children from ORR
8 custody?

9 A. Likely.

10 Q. I'm sorry, lately?

11 A. Likely.

12 Q. Likely.

13 A. Yeah.

14 Q. Okay. Do you recall any particular
15 aspect of release policy that you likely
16 discussed with him?

17 A. I don't -- I don't recall right
18 now.

19 Q. Do you recall having spoken with
20 him about your role in release decisions by ORR?

21 A. No.

22 Q. Do you recall having spoken with
23 him about the time it was taking to release
24 children from ORR custody?

25 A. No.

1 Q. Do you recall having conversation
2 with him about any aspect of alleged gang
3 affiliation of children in ORR custody?

4 A. Yes.

5 Q. And I asked you before if you had
6 any conversations with him concerning release
7 policies, and you said likely, and then you said
8 you didn't recall.

9 A. So another topic would be community
10 safety.

11 Q. The discussion you had with him
12 about gang affiliation, was that in conjunction
13 with the preparation of any policy?

14 A. Could you repeat the question?

15 Q. Yes.

16 MR. DUNN: Could you read it back,
17 please.

18 (Record read.)

19 A. No.

20 Q. Okay. So what's the conversation
21 you had with him?

22 A. Deliberative. Well, background.
23 Background about the UAC policy. Background
24 about community safety. Deliberative policy of
25 the session was about the UAC program.

1 Q. All right. Well, I'm going to set
2 aside deliberative policy discussions. You said
3 that the conversation you had with him about
4 gangs was not in conjunction with consideration
5 of policy.

6 So what I'm asking you now is, I'd
7 like you to relate to me, as best you recall, the
8 specifics of the conversation you had with him
9 about gang affiliation allegedly of children in
10 ORR custody.

11 A. Just the background on what we knew
12 about gang affiliation within the UAC program and
13 background about the community safety initiative.

14 Q. Okay. When approximately do you
15 recall that conversation taking place?

16 A. Over the summer.

17 Q. And was that a single conversation?

18 A. No. A couple.

19 Q. And was this in person or by email
20 or both?

21 A. I've -- I've interacted with him a
22 few times by all means. In person and, you know,
23 email, phone, et cetera.

24 Q. All right. Do you recall providing
25 him any documents in conjunction with those

1 conversations?

2 A. To him personally, I don't recall.

3 But I shared with people whom I figured would
4 share with him.

5 Q. And what are the documents?

6 A. Oh, yeah. Yeah. Some background
7 memos related to the things we talked about.

8 Q. Are those documents that you still
9 have?

10 A. Yes.

11 Q. I will just say, going forward, I
12 won't ask -- I won't mention this again, but I
13 would ask that any documents that we discuss
14 today that you still have that you do not in any
15 way discard those documents.

16 A. Fine. That's an easy ask.

17 Q. Okay. That's an easy ask.

18 Is it correct that you started at
19 D -- at HHS in February of last year?

20 A. Yes.

21 Q. All right. And you had a position
22 something like special advisor?

23 A. Yes.

24 Q. And what were your responsibilities
25 in that position?

1 A. Really to begin the political
2 oversight of the office of refugee resettlement
3 and other tasks as requested or required.

4 Q. Who hired you into that position?

5 A. Tim Clark is the White House
6 liaison.

7 Q. And when you say to begin the
8 political oversight of ORR, what do you mean by
9 that?

10 A. Well, there's career staff and
11 there's political staff, and the new
12 administration the political staff was coming in,
13 and they occupy leadership positions. And so we
14 were beginning that process.

15 Q. And when -- is it -- is it fair to
16 say Mr. Clark hired you?

17 A. Yes.

18 Q. Okay. And when you were hired to
19 be the special adviser, did you understand at
20 that time that you'd become the director of ORR?

21 A. Can you repeat the question?

22 (Record read.)

23 A. No.

24 Q. Was the special adviser position
25 something you were recruited for?

1 A. I don't recall.

2 Q. Well, do you remember applying for
3 a position that you just --

4 A. Yeah. Well, I applied and then --
5 and then, you know, I received some questions as
6 to whether I'd be interested in joining the team,
7 and I don't remember which came first.

8 Q. Okay. What specific duties did you
9 have with respect to ORR as the special adviser
10 starting in February of 2017?

11 A. Really it was to begin the process
12 of interacting with career staff and getting
13 briefed up, as the career staff does with new
14 political leadership, on various outstanding
15 issues that greets that leadership.

16 Q. All right. So does that mean that
17 you, for instance, were going in to and
18 personally meeting with ORR career staff, for
19 instance, like Mr. White --

20 A. Yes.

21 Q. -- during that period of time?

22 A. Yes.

23 Q. All right. And would it be fair to
24 say just generally that was for purposes of
25 getting the lay of the land in anticipation of

1 the administration putting in new political
2 people to lead the agency?

3 A. Yes.

4 Q. As part of that work, did you
5 review agency -- and I'm referring to ORR --
6 policies relating to the UC program?

7 A. Yes.

8 Q. And did that include reviewing
9 release policies?

10 A. Yes.

11 Q. And what was the specific review
12 you were doing with respect to release policies?

13 A. Just general background on the
14 operation of the entire program. And -- but one
15 of the outstanding issues that carried into our
16 administration was -- was the expansion of the
17 release policy.

18 Q. And what do you mean by that?

19 A. We added release review -- explicit
20 release review process to our release policy, and
21 a number of other items to -- to the release
22 policy. And that had already -- that process had
23 begun when I came on.

24 Q. All right. So you're referring, I
25 take it, to -- when you say review of releases,

1 you're talking about director review?

2 A. Well, it's director review and then
3 review of the director's review.

4 THE COURT REPORTER: Review of the
5 director?

6 THE WITNESS: Director's review.

7 (Reporter-initiated discussion off
8 the record.)

9 THE COURT REPORTER: Director
10 review and then review of the director's review.

11 THE WITNESS: Yeah. Or I could say
12 appeal. Make it shorter.

13 Q. What's the first conversation you
14 recall having when you were the special adviser
15 about changing or reviewing ORR release policies?

16 A. That would have been part of the
17 initial briefing on the -- the various
18 outstanding issues. So I don't recall the
19 specific conversation where I was briefed --
20 briefed on the pending release review process.

21 Q. Okay. Did someone direct you, when
22 you were the special adviser, to examine the
23 release policies and practices of ORR?

24 A. No.

25 Q. Was that something you did on your

1 own initiative?

2 A. Yes.

3 Q. And who was supervising your work
4 at that time?

5 A. Well, it depends on the time that
6 you're referring to.

7 Q. All right. Well, as I understand
8 it, you started in the special adviser role
9 sometime in February of 2017?

10 A. Yes.

11 Q. You became the director sometime in
12 March of 2017?

13 A. Uh-huh.

14 Q. So I'm talking about in that period
15 of time.

16 A. So upon becoming director, the
17 acting assistant secretary was Amanda Barlow, and
18 I reported to her. She was directing my
19 activity.

20 Q. But, again, I'm talking about
21 before you became director.

22 A. Before --

23 Q. During the time you were the
24 special supervisor and you're doing the political
25 overview --

1 A. Yeah.

2 Q. -- who was directing your work at
3 that time?

4 A. I -- I would say it was probably
5 mostly Maggie Wynne. Tim Clark had a functional
6 component of that.

7 Q. And what was Maggie Wynne's
8 position at that time?

9 A. It was, as it was with all the
10 beachhead team, unclear. Some general name.
11 Policy adviser.

12 Q. All right. Was she a government
13 employee at that time?

14 A. Yes.

15 Q. During the time you were acting as
16 a special adviser, did you receive any particular
17 training orientation about the work of ORR?

18 A. I would use the word "briefing."

19 Q. Okay. All right. So you became
20 the director sometime at the end of March of
21 2017. Do you recall the particular date you
22 became the director?

23 A. The 24th.

24 Q. 24th, okay. And how'd you get that
25 position?

1 A. Well, I applied for a job on the --
2 on the HHS team, and eventually received a call
3 back, and had a series of interviews, and then
4 came on as part of the transition. Was assigned
5 director of office of refugee resettlement. And
6 then there's a process of that becoming final as
7 a matter of HR and -- and everything else.

8 Q. So are you saying that during the
9 time you were the special adviser that you
10 applied to formally become the director of ORR?

11 A. Yeah, in an informal way.

12 Q. All right. So what's the informal
13 way in which you applied?

14 A. It was first floated to me that I'd
15 be the deputy director, and I made it clear that
16 I'd be interested in the director.

17 Q. And with whom did you have that
18 conversation?

19 A. Maggie Wynne and Tim Clark.

20 Q. All right. And would it be fair to
21 say, then, that in the way that these things
22 happen, you were asked to become the director and
23 you became the director?

24 A. Yes.

25 Q. Okay. In your current position do

1 you have authority to hire and fire staff?

2 A. Yes.

3 Q. Which staff do you hire and fire?

4 A. Any staff that comes on subject to
5 rules and regulations, statutes. Labor
6 agreements that surround that, those actions.

7 Q. All right. During your time as a
8 director, have you hired or dismissed anybody?

9 A. Yes.

10 Q. Who did you either hire or dismiss?

11 A. We've had a number of staff that
12 have come on. I mean, you're asking a very broad
13 question that's kind of nuanced. Some people are
14 reassigned to -- to our office, and it wasn't
15 really a hiring process.

16 Some would have completed the
17 hiring process and finally completed after me
18 coming on. Some are contractors where it's the
19 contracting agency that actually does the hiring
20 and we're bringing on the contract position.

21 So was the question how many or
22 who?

23 Q. It was who, but let's set that
24 aside for a moment.

25 A. Sure.

1 Q. With respect to the deputy
2 directors who report directly to you --

3 A. Yes.

4 Q. -- are those positions that you are
5 free to fill yourself?

6 A. Yes.

7 Q. And did you replace any of the
8 deputy directors when you assumed responsibility
9 in March of 2017?

10 A. No.

11 Q. Other than Mr. White, has any of
12 the other deputy directors changed in your time
13 in the director position?

14 A No

15 Q. What responsibility, if -- if any,
16 do you have for reviewing cases of individual
17 children who are in ORR custody? And I am not
18 limiting this to the UC program.

19 A. Could you repeat the question?

20 (Record read.)

21 A. I review substances into the
22 unaccompanied refugee minor program. And also in
23 certain circumstances I review the release or --
24 yeah, the release decisions for the unaccompanied
25 alien children program.

1 (Reporter-initiated discussion off
2 the record.)

3 Q. Any other individual decisions you
4 review or in fact make with respect to children
5 in ORR custody?

6 A. Significant medical procedures.

7 Q. And what --

8 A. This is me personally?

9 Q. You personally.

10 A. Okay.

11 Q. What significant medical procedures
12 do you personally review or make?

13 A. Any of them that require anesthesia
14 or surgery.

15 Q. Any other categories of medical
16 procedures?

17 A. NO.

18 Q. Do you make any decisions
19 concerning medications for children in custody?

20 A. No.

21 Q. Other than URM acceptances, some
22 releases in the UC program, and significant
23 medical procedures, are there any other types of
24 individual situations that you personally review
25 and decide with respect to children in UC -- in

1 ORR custody?

2 A. No.

3 Q. With respect to the URM
4 acceptances, during the time --

5 A. If I could, there's one question of
6 medication that I was asked to review, but it was
7 an unsolicited request. And I deferred to the
8 medical -- the medical coordinator of the
9 program. And that was covered in my last
10 deposition.

11 Q. All right. And just so we're clear
12 about this, when you say your last deposition,
13 you're talking about the deposition concerning
14 your role in abortion decision making?

15 A. Yes.

16 Q. That was in December of last year?

17 A. Yes. Or it would have been the
18 same -- same round, but different -- one of those
19 two depositions.

20 Q. Okay. Do you play any personal
21 role in decisions within the UC program to
22 transfer children from one type of placement to
23 another?

24 A. Not on a routine basis.

25 Q. All right. So let's go back to the

1 URM acceptances. Approximately how many times
2 have you personally reviewed those individual
3 acceptances during your tenure?

4 A. It would be hundreds. It would be
5 several a week.

6 Q. And how much time, as a general
7 rule, do you have to spend for each of those
8 cases?

9 A. Five minutes, 10 minutes.

10 Q. With respect to the medical
11 procedures, how many of those cases would you say
12 you've reviewed during your tenure?

13 A. It's similar to the URM program.

14 Q. Okay. And how much time, as a
15 general matter, are you spending on those cases?

16 A. Five to 10 minutes.

17 Q. The issue about medication, you
18 said there was one unsolicited request. I just
19 want to get it correct. So you've gotten it that
20 one time. Not part of a standard practice.
21 Someone sent it to you.

22 And, as I understand your
23 testimony, you essentially deferred to the field
24 staff on that?

25 A. Yes.

1 Q. Okay. And then you said with
2 respect to step-ups or step-downs, to use your
3 vernacular, I said placement changes, you said
4 not on a routine basis?

5 A. Yes.

6 Q. How often have you reviewed
7 specific decisions about placement decisions
8 during your tenure?

9 A. I can't recall a specific instance.
10 However, I'd be surprised if this is the type of
11 thing that hasn't come up to me once or twice
12 because of some exigent circumstance.

13 Q. All right. So I take it, as you
14 sit here today, at least, you don't have any
15 recollection of a particular instance in which
16 you've done this; is that correct?

17 A. Yes.

18 Q. All right. And then with respect
19 to, and we'll talk about this more, of course,
20 but with the release decisions for some children
21 in the UC program, how many times have you done
22 that during your tenure where you've reviewed a
23 case?

24 A. Dozens, I would say.

25 Q. And how much time, as a general

1 matter, are you -- have you been spending on
2 those individual reviews?

3 A. It depends. They're typically more
4 complex than a medical procedure which, with
5 regard to medical procedures, are usually some
6 degree of routine. But the release decisions
7 that come up to me are the ones that are by
8 definition not routine release decisions.

9 So there have been some that are --
10 we've spent more than an hour on, and some that I
11 would say generally about a half an hour to an
12 hour.

13 Q. All right. We'll come back to
14 that.

15 Other than your regular Tuesday
16 meeting, do you have other regularly scheduled
17 meetings during your week?

18 A. Yes.

19 Q. Don't we all. All right.

20 How much -- how many hours do you
21 have of regularly scheduled meetings during a
22 typical week?

23 A. Six to eight.

24 Q. And in a typical week, how many
25 hours end up getting consumed with meetings that

1 are not regularly scheduled but just arise in the
2 normal course of affairs?

3 A. Another 12.

4 Q. Do you ever visit the field?

5 A. Yes.

6 Q. How often do you do that?

7 A. We try to go once a month. That's
8 a rule of thumb.

9 Q. Beyond meetings that are taking
10 place, are there other regular commitments you
11 have during your work week that require
12 substantial time?

13 A. Yeah. Writing, responding to
14 emails. Preparing background memos and things of
15 that sort, yeah.

16 Q. How many hours a week, as a general
17 matter, would you say those sorts of
18 responsibilities are required?

19 A. Another 20 to 30 to 40.

20 Q. You mentioned that at this point
21 you believe there are about 8500 children in your
22 custody?

23 A. Yes.

24 Q. How many children came into ORR
25 custody in 2017, if you know? And I'm asking

1 calendar year, if you know.

2 A. Oh, calendar year? We just had it
3 by fiscal year.

4 (Reporter-initiated discussion off
5 the record.)

6 Q. And what's the number for the most
7 recent fiscal year?

8 A. It was 41,000. In that
9 neighborhood.

10 Q. Okay. So just so I understand,
11 that's October 1 through September 30, 2016, to
12 2017?

13 A. Yes.

14 Q. Okay. And that's your 2017 fiscal
15 year?

16 A. Yes.

17 Q. All right. Do you know what the
18 comparable number was for 2016?

19 A. 59,000 and change.

20 Q. And do you know about 2015?

21 A. 33,000 and change.

22 Q. Okay. You have on your website an
23 annual report for 2015. At least on the website
24 there are not any more recent annual reports.

Are there more recent annual

1 reports that you know of?

2 A. To the -- the annual report to
3 Congress?

4 Q. Yes.

5 A. It's in clearance.

6 Q. It's in clearance. Okay. So
7 there's 20' -- is 2016 coming?

8 A. Yes.

9 Q. You mentioned -- well, let me back
10 up.

11 I understand you were in New York
12 earlier this week?

13 A. Yes.

14 Q. You spoke at the U.N.?

15 A. Yes.

16 Q. All right. You said at that event
17 that in December 2016, as I recall, that the
18 agency had 12,000 children in custody?

19 A. Yes.

20 Q. Do you recall that?

21 A. Yes.

22 Q. All right. Is that an accurate
23 number?

24 A. Yes.

25 Q. All right. And we have seen a

1 document that indicates that in June of 2017 the
2 total number of children in ORR UC program was
3 2400. Are you familiar with that number?

4 A. That sounds right. Sounds a little
5 low, but . . .

6 Q. And just to be clear, the 12,000
7 number that you mentioned at the U.N. panel, that
8 was children in the UC program; correct?

9 A. Yes.

10 Q. All right. So do you have a sense
11 as to how we went from or you went from 12,000 in
12 December 2016 to somewhere around 2400 in June of
13 2017 to 8500 now?

14 A. Yes.

15 Q. What's your understanding of that?

16 A. There is an -- it was a historic
17 drop in referrals that lasted, if memory serves,
18 probably until about June. It was accompanied by
19 a historic high rate of discharges for an
20 extended period, and I don't remember how long
21 that occurred. But the main driver was the
22 different referrals compared to a relatively
23 steady or high rate of discharge.

24 Q. All right. And that is during the,
25 if you will, December of 2016 to approximately

1 June 2017 period you're talking about?

2 A. Yes.

3 Q. All right. And did those trends
4 then reverse afterwards?

5 A. Yes. The referrals started to pick
6 up. And the discharges, going to various
7 variables, that -- that fluctuates somewhere
8 between 1.2, 1.7 per 100 kids per day.

9 Q. All right. Do you know how many
10 children are in ORR custody in New York as of
11 now?

12 A. I don't have that committed to
13 memory.

14 Q. Do you get state-specific reports
15 from time to time about the number of kids in
16 custody?

17 A. We get reports of beds, and that --
18 that would be at hand, if -- if needed.

19 Q. Since the filing of this lawsuit,
20 which was February 16th of this year, do you know
21 of any changes in the number of children who have
22 been moved to New York to be placed in ORR
23 facilities there?

24 A. No.

25 Q. Do you know of any directives,

1 written or otherwise, concerning the movement of
2 children into New York since the filing of this
3 lawsuit?

4 A. No.

5 Q. If there were such a directive, do
6 you think you would know about it?

7 A. Yes.

8 Q. In terms of children coming into
9 ORR custody, you mentioned that they typically
10 come from other agencies. And I think you
11 mentioned particularly DHS and perhaps sometimes
12 the Coast Guard?

13 A. Yeah.

14 Q. Do the other ones come in from
15 other agencies?

16 A. Not typically.

17 Q. And at least in terms of -- in
18 terms of releases, as I understand it, these
19 children can be released and reunified with a
20 sponsor or placed with a sponsor. Some children
21 will age out. Some children will take voluntary
22 departure?

23 A. Yes.

24 Q. Are there other ways in which
25 children leave ORR custody?

1 A. Well, sometimes the sponsor is a
2 long time -- long-term foster care.

3 Q. Okay. So would you consider that
4 to be, at least the way I'm talking about,
5 continuing in ORR custody?

6 A. No. That would -- that would be a
7 release.

8 Q. That would be a release?

9 A. Yeah. And those tend to be our
10 category four kids.

11 Q. Uh-huh. Okay. So other than
12 release, age out, voluntary departure, are there
13 any other ways that children leave ORR custody?

14 A. No.

15 Q. Do you have a sense, of the time
16 that you have been the director of the
17 distribution of children leaving ORR custody
18 between those various categories, mainly
19 reunification, age outs, or voluntary departure?

20 A. Oh. It's the -- mostly your
21 reunification, by -- by a wide margin. But more
22 specific than that, I would say at least
23 60 percent. But what are expected to be higher.
24 That's a conservative estimate.

25 Q. And do you have any sense of the

1 percentages of age outs or voluntary departures?

2 A. That would be small. That would --

3 I would expect that to be less than 10 per --

4 10 percent.

5 Q. And have those small percentages

6 changed in any meaningful way over the course of

7 your tenure?

8 A. I don't know.

9 Q. Is that something you get reporting

10 about, in terms of the way people -- children are

11 leaving your custody?

12 A. Not regularly.

13 Q. You get it from time to time?

14 A. Yes.

15 Q. All right. In terms of the most

16 recent report that you got, setting aside when

17 you got it, what's your recollection about the

18 distribution of children leaving custody in these

19 different categories?

20 A. That's my best recollection of

21 that.

22 Q. At least 60 percent, less than

23 10 percent, less than 10 percent?

24 A. Yeah. The age outs would be a -- a

25 larger category than voluntary departure.

1 Q. And the age outs are then -- in
2 that situation, they're transferred to ICE; is
3 that correct?

4 A. Yes.

5 Q. All right. With respect to your
6 placement types, is it fair to say that you have
7 as placement types secure, staff secure, shelter,
8 foster care, and therapeutic?

9 A. Yes.

10 Q. All right. So that's -- those five
11 categories. Can you just give me a thumbnail
12 sketch of what you consider to be the essential
13 characteristics of each of those five categories?

14 A. Well, therapeutic would be an
15 instance where there's a physical or mental
16 condition that requires special care.

17 Long-term foster is -- is where,
18 you know, you have sponsorship prospects from one
19 of the family.

20 Secure is where there's been --
21 where there's a danger to one's self or to
22 others.

23 Staff secure is where there's some
24 sort of misbehavior. It could be along the lines
25 of danger to self or others, but tends to be more

1 flight risk.

2 And shelter would be the vast
3 majority of our population where there's not a --
4 a concern over safety to one's self or to others,
5 or a flight risk.

6 Q. For the 8500 children who are
7 currently in custody, what's your best estimate
8 of either the numbers or percentages of your
9 population are each -- in each of these five
10 placement types?

11 A. Long-term foster, I'd have to ask
12 somebody. And the same with therapeutic.

13 In secure, I believe the last time
14 I checked there is a -- it was in the high 60s.

15 And staff secure that -- that would
16 be between one and 200, and then the rest would
17 be shelter.

18 Q. And when you say "one to 200," is
19 that a figure -- that's your best recollection of
20 what the figure is, or is that a capacity figure?

21 A. It's -- it's one or the other.

22 It's one or the other, yeah.

23 Q. Okay. What's your understanding of
24 what your shelter capacity is -- excuse me, your
25 secured capacity?

1 A. 8 -- 89, I believe.

2 Q. And your staff secure?

3 A. My guess would be like 190, but I
4 would have to check.

5 Q. Okay. What are the various ways in
6 which a child in ORR custody would end up in a
7 secure placement?

8 A. Assaulting another UAC or a staff
9 member. Establishing a pattern of violent
10 behavior. Gang affiliation.

11 Q. Anything else?

12 A. I think in most instances where
13 there's an attempt at an escape they would be in
14 staff secure, rather than secure. If there was
15 attempts at escape accompanied by violent or
16 disruptive behavior, it could be in -- in secure.

17 Q. Of the current high 60s number of
18 kids who are in secure placement as of now,
19 what's your best sense of the extent to which
20 they are in for any of the four different reasons
21 that you mentioned?

22 A. I think they're all in for those
23 reasons.

24 Q. Sorry. I meant the distribution.

25 A. Oh. I see. The distribution?

1 Q. Uh-huh.

2 A. Most -- most all of them would
3 be -- so -- so we have violent and disruptive
4 behavior. There -- that's -- that's the story of
5 secure.

6 Q. That's most of them?

7 A. Yeah.

8 Q. Okay. And I understand what you're
9 saying about attempt to escape, if paired with
10 perhaps violent and disruptive behavior, would
11 also get you in secure?

12 A. Yeah. I'm not -- I'm not aware of
13 a situation where an escape attempt alone would
14 wind somebody up in secure, unless it was --
15 somebody had tried every day to escape, for
16 example. But that is speculative.

17 Q. And then -- so then what that
18 leaves us is gang affiliation. How many of the
19 people are we talking of the 60 might be in that
20 category?

21 A. Probably five to 10, number-wise.

22 Q. And --

23 A. If that.

24 Q. If that, okay. And in terms of
25 this distribution, is this typical of the

1 distribution of kids in secured during your
2 tenure?

3 A. Yes.

4 Q. Is this something you get a regular
5 report about, in terms of the characteristics of
6 kids in secure?

7 A. No.

8 Q. What sort of reporting do you get,
9 if any, about the number of kids who are in
10 secure or staff secure placements?

11 A. It's just as needed, and as it
12 comes up in various conversations.

13 Q. Is that information, though, the
14 agency regularly has available to it?

15 A. Yeah. It would be available
16 roughly whenever we needed it.

17 Q. Since the time you have been the
18 director, can you estimate how many children in
19 ORR custody have been in secure placement?

20 A. If I were to venture a guess, and I
21 think it would be a bad guess.

22 Q. All right. We don't want you to
23 make a bad guess, but I would like you to make an
24 estimate as best you can, to the extent that you
25 can.

1 A. I would say 300.

2 Q. And then in terms of staff secure
3 what would be your best estimate?

4 A. 600.

5 Q. And do you happen to know when you
6 became the director how many kids at that time
7 were in either staff secure or secure?

8 A. It -- the numbers have held steady
9 since me coming on, according to my recollection.

10 Q. Okay. So, for instance, to the
11 extent that your estimate today is high 60s for
12 secure, and 100 to 200 for staff secure, your
13 sense is it would have been about the same
14 numbers in March of 2017?

15 A. Can you repeat the numbers?

16 Q. I think you had said that as of now
17 you estimated that the number of kids in secure
18 was the high 60s, and the number of kids in staff
19 secure was 100 to 200.

20 A. Okay.

21 Q. So assuming I have that right, and
22 assuming that you're saying you think the numbers
23 have held over time --

24 A. Sure.

25 Q. -- would it be fair to say it's

1 your sense, as you sit here today, that when you
2 became the director that those were the types of
3 numbers of kids who were in either secure or
4 staff secure at that time?

5 MR. BYARS: Object to the form.

6 You may answer.

7 A. That's specul -- specul -- okay. I
8 think that's -- that's roughly right. However,
9 you know, there -- there was the change that
10 we're aware of that gang affiliation would result
11 in initial secure placement, which may have
12 increased the number of -- of people in our
13 secure placement slightly, but more than
14 20 percent I'd be surprised.

15 Q. Okay. With respect to moving kids
16 from facility to facility, is that something that
17 ORR does on a regular basis?

18 A. Yes.

19 Q. All right. And does ORR also, as a
20 regular basis, move children around to different
21 parts of the country?

22 A. Yes.

23 Q. Is that something you have pretty
24 much complete control over?

25 A. Yeah. Yes.

1 Q. What regular interactions does ORR
2 have with law enforcement personnel, either
3 federal or local?

4 A. We -- well, at initial referral
5 it's usually from a law enforcement from CDP or
6 ICE. And at the -- at release ORR reports the
7 details of the release, to UAC and the sponsor,
8 to the local ICE field staff, FOJC, field office
9 juvenile coordinator.

10 THE WITNESS: Field office juvenile
11 coordinator.

12 THE COURT REPORTER: Coordinator.

13 Q. All right. So you're having at
14 least contact with them when the child comes into
15 your custody. You're saying you provide them
16 notification upon release. Beyond that, what
17 sort of interactions does the agency have with
18 law enforcement?

19 A. Well, that's on a case-by-case
20 basis. So if a kid commits a crime while in --
21 in our care, then we would have interaction with
22 law enforcement at that point. If there's been
23 an escape attempt -- attempt or leave or
24 information, or if law enforcement learns
25 information about gang affiliation or crimes

1 committed, then there would be interaction at
2 that point.

3 And we've also, as part of
4 community safety engagement, we've -- we're
5 beginning the process of bringing law enforcement
6 into -- into our shelters and -- and -- well,
7 into our shelters in order to give gang -- gang
8 resistance training, which is -- which is
9 administered by a law enforcement officer.

10 (Reporter-initiated discussion off
11 the record.)

12 A. It's called the GREAT program,
13 which is similar to the DARE program, but if you
14 ask me what GREAT stands for, I draw a blank.

15 Q. Okay. I'm sorry --

16 (Reporter-initiated discussion off
17 the record.)

18 A. G-R-E-A-T. Gang resistance. I
19 don't know.

20 Q. Do you yourself have any ongoing
21 interactions with any law enforcement agencies in
22 New York?

23 A. In New York. I wouldn't describe
24 them as ongoing. I've had discussions with law
25 enforcement entities in New York.

1 Q. What are the entities?

2 A. Personnel.

3 Q. So what are the entities or

4 personnel you've had discussions with?

5 A. I've had discussions with Suffolk
6 County Commissioner's office.

7 Q. And what is --

8 A. The police commissioner's office.

9 Q. The police commissioner's office.

10 And what were those discussions?

11 A. To discuss the nexus or -- yeah, I
12 guess you could say nexus, between gang suspects
13 that they had in custody and the UAC program.

14 Q. Did those discussions include any
15 discussions about release of children in ORR
16 custody?

17 A. More -- more along the -- well,
18 yeah. I think so.

19 Q. And what were the particulars of
20 that discussion?

21 A. It would be providing -- it would
22 be general background about what -- what they see
23 regarding release of unaccompanied alien children
24 into their community, and then us providing
25 background about our release processes and

1 sponsorship processes.

2 MR. BYARS: Would now be a good
3 time for another break, Mr. Dunn?

4 MR. DUNN: I'm happy to take
5 another break, if this is the time you would
6 break. How are we doing on time? What time is
7 it?

8 MR. BYARS: It's about 10 of 12.

9 Why don't we just take a couple of minutes.

10 MR. DUNN: Sure.

11 THE VIDEOGRAPHER: Going off the
12 record at 11:49.

13 (Recess taken.)

14 (Luncheon recess: 11:48 a.m.)

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A F T E R N O O N S E S S I O N

2 (1:04 p.m.)

3 EDWARD SCOTT LLOYD,

4 having been previously sworn, resumed the
5 stand and testified further as follows:

6 THE VIDEOGRAPHER: We are going
7 back on record at 1:05. This begins disk No. 3.

EXAMINATION (Cont'd.) BY

9 COUNSEL FOR PLAINTIFFS/PETITIONERS

10 BY MR. DUNN:

11 Q. Mr. Lloyd, I want to go back and
12 ask you a couple of quick things.

13 A. Uh-huh.

14 Q. You said that you might, in a
15 couple instances, have been involved with a
16 individual case involving a placement decision?

17 A. Yes.

18 Q. Let me ask you this: Are any of
19 those decisions being elevated to headquarters
20 and being reviewed by somebody else?

23 O. Sure.

24 A. Is it being -- I wouldn't use the
25 term "elevated." Much or most of what we do in

1 the agency we copy, if it's an email, for
2 visibility purposes, personnel at the department,
3 and usually -- usually that's Maggie Wynne
4 because she has jurisdiction over our issues.

5 And then so do we elevate and
6 review, I think if we could -- I'd like to answer
7 the question yes.

8 Q. Okay. So what I'm trying to get at
9 is, I understood from your testimony, but correct
10 me if I'm wrong, that you do not personally,
11 except for perhaps one or two instances you don't
12 remember, review and make decisions about
13 displacement movements of children in the UC
14 program; is that correct?

15 A. Typically, I am not involved in
16 that.

17 Q. Okay.

18 A. It's only in the rare instance
19 where I'm involved in placement and movement,
20 transfer.

21 Q. Is anybody else in the headquarters
22 staff involved with the review and decision
23 making about step-ups or step-downs?

24 A. Not in a typical matter. Unless
25 there's some complication in a case, this is the

1 federal field staff that makes the decision.

2 Q. And during your tenure as
3 director -- and how many instances as a general
4 matter are you aware of in those unusual
5 circumstances headquarters staff being involved
6 in deciding about placement decisions?

7 A. In those rare instances?

8 Q. Yes.

9 A. A handful.

10 Q. Okay.

11 A. Less than five.

12 Q. Okay. With respect to the
13 distribution of outcomes of people leaving ORR
14 custody, you said that at least 60 percent were
15 being released?

16 A. Yes.

17 Q. Were you including in that movement
18 of children to long-term foster care?

19 A. No.

20 Q. All right. So is that what I would
21 describe as reunification with a sponsor?

22 A. Long-term foster care, is that --

23 Q. No, the 60 percent?

24 A. Oh. Yes, yes.

25 Q. All right. And when you estimated

1 8500 children are currently in ORR custody, that
2 includes or excludes long-term foster care?

3 A. That includes. That includes all
4 levels.

5 Q. And what would be your estimate, if
6 you have one, of how many children are in
7 long-term foster care?

8 A. 40.

9 Q. 40 total?

10 A. Yes.

11 Q. Long-term foster care?

12 A. Yes.

13 Q. You talked about tracking on, I
14 think you said, a daily basis their release rate.
15 And you mentioned ranges from .7 percent to
16 1.4 percent.

17 What was the release rate at the
18 time you became the director in March of 2017?

19 A. I don't remember.

20 Q. Do you have any recollection of
21 release rates at any point in time during the
22 spring of 2017?

23 A. No. I -- I -- just that it was
24 generally slightly higher.

25 Q. And slightly higher than what is a

1 typical rate? Is that what you mean by that?

2 A. Yeah. We started out the year
3 with -- with a -- yeah, somewhat higher than the
4 typical rate. I think our typical rate is, at
5 least since I've been looking at it, 1.4 to 1.5.
6 We started out with maybe some -- somewhere more
7 like 1.6.

8 Q. And you're talking about the
9 beginning of 2017?

10 A. Yes.

11 Q. Okay. Within the agency, within
12 ORR, how many political appointees are there who
13 had responsibility for the UC program?

14 A. Three.

15 Q. And who are those three?

16 A. It's myself, Pedro Moreno, and Kim,
17 Kimberley Womack.

18 Q. And who are the second two?

19 A. Pedro Moreno is the principal
20 deputy director, and Kimberley Womack is a policy
21 adviser.

22 Q. Is she a policy adviser to you?

23 A. Yes. They both report directly to
24 me.

25 Q. You mentioned, as I understood it,

1 that there were five supervisory FFSSs in the
2 agency?

3 A. Yes.

4 Q. Have any of the five of them -- are
5 any of the five current supervisors new to that
6 position since you became the director?

7 A. No.

8 Q. Okay. So, to be clear, when you
9 came in in March of 2017, the five incumbent
10 supervisory FFSSs were in those positions?

11 A. Yes.

12 Q. Does the agency have any reports
13 that you know of that report on the duration of
14 children in ORR custody who are or have been in
15 secure or staff secure?

16 A. There are no regular reports. If
17 somebody asks for that information, we could get
18 it.

19 Q. All right. So I take it by that,
20 you mean, but just confirm it, you have data from
21 which those reports could be compiled, but those
22 reports are not compiled as of now?

23 A. Correct.

24 Q. Okay. And who's got -- is that
25 data that's in the possession of ORR?

1 A. Yes.

2 Q. Okay. And you have staff here in
3 headquarters who use that data from time to time
4 to produce reports?

5 A. Yes.

6 Q. All right. If you were going to
7 ask somebody to compile that information, who
8 would be the person you would ask?

9 A. I would ask Jallyn Sualog, who
10 would ask Olympia Belay.

11 (Reporter-initiated discussion off
12 the record.)

13 Q. Does the agency produce reports of
14 kids who are in ORR custody who are or have been
15 in secure or staff secure and that have been in
16 custody for more than a particular point in time,
17 for instance, like more than six months?

18 A. I don't know.

19 Q. Okay. Have you ever seen a report
20 that's a list of kids who have been in custody
21 and who either are or were in staff secure for
22 any specified period of time?

23 A. No.

24 Q. Is that the sort of information
25 that could be pulled from the data set that you

1 have?

2 A. Yes.

3 Q. Independent of any reports, do you,
4 as you sit here today, know anything about the
5 length of custody of children who are currently
6 in your custody and who are or have been in
7 secure or staff secure places?

8 A. Yes.

9 Q. Okay. What's the information you
10 have about that length of custody?

11 A. Just generally, that it tends to be
12 longer than our shelter placements.

13 Q. Okay. You, I think mentioned
14 before, that length of custody generally have
15 been relatively stable around 45 days over your
16 tenure.

17 Do you recall that?

18 A. Yes.

19 Q. All right. Was that for all
20 children in the UC program?

21 A. Yes.

22 Q. Okay. What's your understanding,
23 if you have one, about a comparable number of
24 days that children have remained in custody
25 during your tenure who are or have been in other

1 secure or staff secure?

2 THE WITNESS: Could you repeat the
3 question?

4 (Record read.)

5 A. It would be a guess.

6 Q. I don't want you to guess. Do you
7 have any estimate of that?

8 A. Yeah. It would be an estimate, and
9 I think it would be about 60 days.

10 Q. To your knowledge, has that figure
11 changed in any significant way during the course
12 of your tenure?

13 A. No.

14 Q. Does the agency make an effort to
15 determine whether or not a child in its custody
16 in the UC program has any connection to gang
17 activity?

18 A. Yes.

19 Q. And what specifically does the
20 agency do to determine that or to ascertain that?

21 A. They -- it examines the
22 documentation that accompanies the placement at
23 custody. And it -- because of its ability to
24 observe the clinical process, because the
25 clinical process is part of the program that we

1 oversee, if that -- if indications of gang
2 activity arise, then we receive that information
3 and act upon it.

4 Q. All right. And when you're saying
5 "clinical activity," you're talking about social
6 work provided by provider agencies, for instance?

7 A. Yes.

8 Q. All right. And you're saying that,
9 if during the course of that work, they learn of
10 something they consider to be gang related,
11 that's information that would be conveyed to ORR?

12 A. Yes.

13 Q. All right. Why does the agency
14 have an interest in whether or not there is
15 possible gang affiliation, for lack of a more
16 precise term at the moment, for a child in its
17 custody?

18 A. It could be an indication of
19 dangerousness.

20 Q. Does the agency have itself a
21 protocol for determining whether or not there is
22 in fact possible gang involvement by a child in
23 its custody?

24 A. That's a case-by-case
25 determination.

1 Q. But in making that case-by-case
2 determination, does the agency have a specific
3 protocol or tool that it uses case by case to
4 determine whether or not a child may have gang
5 involvement?

6 A. No.

7 Q. Does it have any written policies
8 for directives that are provided to its staff or
9 providers that specifies what the standards are
10 for determining if a child is somehow gang
11 connected?

12 A. There is -- there is a distinction
13 made in our policy between current gang
14 affiliation and past gang affiliation. That's
15 one of the things that we look at in making that
16 determination.

17 Q. Okay. What I'm trying to you
18 understand is, setting aside whether it's current
19 or past, what standards or criteria the agency
20 uses to conclude that a child is or was gang
21 affiliated?

22 A. It's a case-by-case determination
23 made by the program in concert with the federal
24 field staff.

25 Q. And do you know of any written

1 standards that govern that case-by-case
2 determination?

3 A. No.

4 Q. And if there were such standards
5 would you know of them?

6 A. Yes.

7 Q. Do you know if there are any
8 particular staff in ORR who have been specially
9 trained to identify characteristics of someone
10 who may be involved with a gang?

11 A. Yes.

12 Q. Who are the staff?

13 A. The -- there are some that I know
14 have had the training, and there are some who've
15 had the training, and I don't know who was at the
16 training.

17 Q. Okay. Is there an understood
18 single form of training that's available to
19 staff?

20 A. We've had a number of engagements
21 with law enforcement and Department of Justice
22 to-- to give federal staff the opportunity to
23 learn more about gangs and be trained in -- in
24 gang awareness. What are the indicators of gang
25 affiliation.

1 Q. Do you have any idea how many of
2 your 150 employees involved with the UC program
3 have been to that training?

4 A. No, I don't know how many.

5 Q. Do you have particular categories
6 or labels that you use, in terms of thinking
7 about someone who may be gang involved? For
8 instance, you say who is currently a gang member?
9 I mean, is "gang member" a term that the agency
10 defines and uses for certain purposes?

11 A. No. The -- no.

12 Q. Okay. Is there any other -- you
13 mentioned gang affiliated. Is "gang affiliation"
14 or "gang affiliated" a term the agency uses?

15 A. It's term the agency uses.

16 Q. All right. And what does -- what
17 is the definition of that term in the way the
18 agency uses it?

19 A. It's a term that the agency uses
20 and is not defined in any -- anything written.

21 (Reporter-initiated discussion off
22 the record.)

23 Q. What's your understanding of the
24 substance of the term "gang affiliated," as the
25 agency uses it?

1 A. The people who have received
2 training in gang affiliation explained it to me
3 as it being a spectrum where at one end of the
4 spectrum there would be impressed low-level
5 service, and at the other end of the spectrum
6 would be willful, highly violent gang-affiliated
7 behavior.

8 Q. Other than "gang affiliated," is
9 there a term the agency uses to describe a
10 child's gang involvement?

11 A. "Member of a gang."

12 Q. "Member of a gang," okay. So how
13 is "member of a gang" different than being gang
14 affiliated, for purposes of the agency's work?

15 A. I don't think there is any
16 functional difference.

17 Q. All right. So it would be fair to
18 say that "member of a gang" is at the far end of
19 the spectrum, if you will, of "gang affiliated"?

20 A. Yes.

21 Q. Okay. So other than "gang
22 affiliated," are there any other terms the agency
23 uses to describe or characterize gang involvement
24 by a child in its custody?

25 A. No.

1 Q. If the agency identifies a child
2 who's being gang affiliated, what effect, if any,
3 does that have on release decisions by the
4 agency?

5 A. That would be -- if they have been
6 identified as affiliated with a gang, then that
7 becomes a release decision that has to be
8 reviewed by me.

9 Q. Okay. Is there a written policy
10 that states that?

11 A. Yes.

12 Q. And where is that policy, if you
13 know?

14 A. In our policy guide.

15 Q. In the policy guide.

16 Do you know what section of the
17 policy guide?

18 A. 12.7, I believe. But I could be
19 wrong.

20 Q. I'm not going to hold you to that.
21 We'll come back to it.

22 Does being gang affiliated, in the
23 eyes of the agency, have any effect on placement
24 decisions of children in ORR custody?

25 MR. BYARS: Object. Are you asking

1 as a 30(b) (6) witness or are you asking for his
2 understanding?

3 MR. DUNN: His understanding.

4 A. Okay. Could you repeat the
5 question?

6 MR. DUNN: Can you read it back,
7 please.

8 (Record read.)

9 A. Yes.

10 Q. And what's the effect?

11 A. Gang affiliation will result in a
12 secure placement. Review of the placement
13 decision in a secure setting is a more accurate
14 way of putting it.

15 Q. Review of a placement decision in a
16 secure setting. Could you explain what you mean
17 by that?

18 A. There's an initial placement in
19 secure while a review occurs of the allegation of
20 gang affiliation.

21 Q. Okay. And does that placement in
22 secure facility follow, if the child is anywhere
23 on what you described as the spectrum of gang
24 affiliation?

25 A. Yes.

1 Q. All right. And would this result
2 of placement in a secure placement apply both if
3 there's information the agency gets when the
4 child originally comes into ORR custody, and if
5 there is a child already in ORR custody and
6 information surfaces about the child?

7 A. Yes.

8 Q. Do you know, in the time that
9 you've been the director, how many children
10 have -- excuse me -- been identified as gang
11 affiliated such that they have been subject to
12 this placement practice?

13 A. No.

14 Q. Do you know how many children,
15 since you have been ORR director, have been
16 elevated to you for review on their release by
17 virtue of a finding of gang affiliation?

18 A. No.

19 Q. With respect to the release
20 decisions, do you have any estimate of how many
21 have come to you?

22 A. Yes.

23 Q. What's your estimate?

24 A. Dozens.

25 Q. Okay. When I asked you earlier

1 about the number of release decisions that had
2 come to you during your tenure, you said dozens.

3 And in terms of this particular
4 issue about release decisions being elevated to
5 you for gang affiliation specifically, you're
6 saying dozens?

7 A. Uh-huh.

8 Q. Are there cases that you're getting
9 to review that -- for purposes of release that
10 are not gang-affiliated cases?

11 A. Yes.

12 Q. Okay. How many nongang-affiliated
13 cases are coming to you for release review?

14 A. At least half.

15 Q. At least half of the cases that you
16 get?

17 A. Yes.

18 Q. Okay. So you've got dozens of gang
19 ones. You've got dozens of total cases. Let's
20 try to be a little more specific.

21 Your best estimate, in the year
22 that you've been the ORR director, how many cases
23 have come to you either for -- for release
24 review, regardless of whether they are gang
25 affiliated or not?

1 A. I'd say between 100 and 120, doing
2 the math.

3 Q. Okay. Did something happen during
4 the lunch break that gave you a little clearer
5 recollection of how many cases you might have
6 reviewed?

7 A. No. I just did the math right now
8 in my head.

9 Q. Okay. Fair enough.

10 A. Two a week and multiplied by 52.

11 Q. Okay. We'll come back to that.

12 And based upon what you know about
13 children in custody in the review process in the
14 agency, do you have any sense of how often a
15 child who is originally identified as being gang
16 affiliated turns out not to be gang affiliated
17 once the agency reviews it?

18 A. I would say that's rare.

19 Q. All right. Starting with -- with
20 cases where there's information about gang
21 affiliation when you assume custody of a child,
22 what is the agency doing to ascertain the
23 validity of information that's coming from
24 another agency?

25 A. Speaking with the agency that made

1 the referral or provided the information is a
2 better way to say it, and then speaking with the
3 child in a clinical setting.

4 Q. And, as I understand it, there's no
5 instrument or protocol that's being used to -- in
6 part -- as part of this review process; is that
7 correct?

8 A. That's correct. There are
9 recidivism tools that we use in some cases but
10 that doesn't speak directly to gang affiliation.
11 I should also mention that we contact family
12 members.

13 Q. And setting aside the protocol, is
14 there a particular document that agency staff are
15 using to investigate whether or not information
16 that is received upon initial placement with the
17 agency concerning gang affiliation is accurate or
18 valid?

19 A. There is not a written protocol.
20 There's a -- there's a -- a program-wide
21 understanding.

22 Q. What I'm asking is, even beyond the
23 protocol. Is there a form? Is there a piece of
24 paper that's uniformly used to --

25 A. No.

1 Q. -- record information about your
2 assessment of alleged gang affiliation?

3 A. No. Not for gang affiliation.

4 Q. With respect to suspected gang
5 affiliation that surfaces after the child is in
6 your custody, what is the process for
7 investigating whether or not that is accurate and
8 valid?

9 A. Check with the relevant law
10 enforcement entity that's back in country through
11 Interpol, or if it's in this country. And then
12 follow up with others who may have information,
13 but usually that's -- that's family. I don't
14 think we extend beyond family.

15 Q. And with respect to that process,
16 namely, reviewing gang allegations that surface
17 for a child who's in your custody, is it correct
18 there's no agency protocol for doing that?

19 A. There's no written agency protocol.
20 There's a program-wide understanding.

21 Q. Is it also correct there's no
22 specific form that the kids use for purposes of
23 that review process?

24 A. In the gang review process, yes,
25 there is no specific form.

1 Q. As we sit here today, do you have a
2 sense of the percentage of children, or the
3 number, who are in your custody now through the
4 UC program who the agency believes are gang
5 affiliated?

6 A. The best estimate we have at any
7 one time is between one and one and a half
8 percent of the kids who go through our program.

9 Q. Okay. Has that been a pretty
10 stable number during your tenure?

11 A. That is the best informed
12 hypotheses of -- of the various people working
13 with kids in the program.

14 Q. Do you get any reports from time to
15 time that lists or enumerates the number of
16 children the agency believes are gang affiliated?

17 A. No.

18 Q. Are you aware of a survey that took
19 place in June of last year that attempted to
20 identify the number of kids who are gang
21 affiliated?

22 A. That rings a bell.

23 Q. Okay. What do you remember about
24 that survey?

25 A. In the context of either our

1 discussions with Commissioner Sini or -- Sini,
2 S-I-N-I -- or preparation for a hearing, we
3 made -- I believe we made a request to find out
4 how many are suspected of gang affiliation.

5 Q. And you made a request of whom?

6 A. Our -- I would have asked Jonathan
7 White, who would have tracked it down.

8 Q. Okay.

9 (Lloyd Exhibit Number 2, 8/16/17

10 AC&F information memo regarding community
11 safety initiative for the UAC program,
12 four pages, marked for identification as
13 of this date.)

14 Q. Mr. Lloyd, I'm showing you what's
15 been marked as Lloyd Exhibit No. 2. This is a
16 ACF memo dated August 16, 2017.

17 Is this a document you have seen
18 before?

19 A. Yes.

20 Q. All right. Let me direct your
21 attention to the second page of it. And in the
22 "Discussion" section on that page, could you take
23 a moment and just look at that paragraph.

24 A. Okay.

25 Q. Is this the survey that you recall

1 having happened?

2 A. Yes.

3 Q. Okay. As far as you know, are the
4 results of the survey as reported on this
5 document accurate?

6 A. Yes. It's an accurate reflection
7 of the survey we did.

8 Q. And what were these survey results
9 used for?

10 A. Per our understanding and per the
11 understanding of others.

12 Q. Who were the others you're
13 referring to?

14 A. Interagency partners and the public
15 necessary. Or where appropriate, I guess I would
16 say better.

17 Q. There's been mention before about
18 the TVPRA?

19 A. Yes.

20 Q. Are you familiar with that statute?

21 A. Yes.

22 Q. All right. Are you familiar with
23 the provision in the statue that requires the
24 prompt placement of children in the least
25 restrictive placement, consistent with their best

1 interests?

2 A. Yes. Very familiar.

3 Q. Do you understand that obligation
4 to apply to the agency?

5 A. Yes.

6 Q. All right. Do you understand that
7 obligation to apply to the placement of children
8 with sponsors?

9 A. Yes.

10 Q. And you also understand that
11 obligation to apply when it comes to placing
12 children in different types of settings inside of
13 ORR, namely, secure versus staff secure, for
14 instance?

15 A. Yes.

16 Q. Does the agency have any particular
17 system for tracking its compliance with that
18 obligation?

19 A. The system of tracking our
20 compliance is everything that we do. That's the
21 entire framework of the program.

22 Q. I understand that or I accept that.

23 But what I'm asking you is, is
24 there a particular system designed for the
25 express purpose of monitoring compliance with

1 this provision of the TVPRA?

2 A. Could you define "system"?

3 Q. Anything that you have.

4 A. The program has visibility into
5 every release decision that we make. And all
6 those decisions are made on the basis of our
7 obligations under TVPRA, Homeland Security Act,
8 and the Flores settlement.

9 Q. Well, I understand that. What I'm
10 asking you, though, is, does the agency have any
11 system that is specifically designed for the
12 purpose of assessing compliance with the mandate
13 of the TVPRA of prompt placements in the
14 least-restrictive setting in the best interest of
15 the child?

16 A. And my answer to that question is
17 that the program complies with those statutory
18 obligations. The program itself is the system
19 for complying with those obligations.

20 Q. All right. When you say the
21 program complies with it, on what basis do you
22 draw that conclusion?

23 A. My interaction with the staff. My
24 review of releases. And my understanding of the
25 interaction of the policy staff with -- with the

1 program.

2 Q. All right. Anything more specific
3 than that?

4 A. I think that covers everything.

5 Q. Do you get any reports at any time
6 that expressly attempt to measure compliance with
7 this particular mandate of the TVPRA?

8 A. Report, no. Apart from an
9 individual who makes a decision, because it's an
10 individualized determination.

11 MR. DUNN: Can you mark that as 3.

12 (Lloyd Exhibit Number 3, 2/15/18

13 USDHS publication entitled:

14 Unaccompanied Alien Children and Family
15 Units Are Flooding the Border Because of
16 Catch and Release Loopholes, four pages,
17 marked for identification as of this
18 date.)

19 Q. Mr. Lloyd, I'm showing you an
20 exhibit that's been marked as Lloyd Exhibit 3,
21 which is a release from the Department of
22 Homeland Security dated February 15, 2018,
23 concerning, amongst other things, a TVPRA.

24 Is this a document you've seen
25 before?

1 A. No.

2 Q. All right. Are you aware that DHS
3 issued release in February 2018 concerning,
4 amongst other things, the TVPRA?

5 A. I'm generally aware.

6 Q. Okay. Before this was released,
7 were you aware that it was going to be released?

8 A. No.

9 Q. Did you have any input into this
10 release?

11 A. No.

12 Q. How did you learn of it?

13 A. I didn't. I never learned of this
14 particular release. I've learned of statements
15 in the media by different people in, I'll call
16 them other agen -- interagency partners that have
17 similar information.

18 Q. Do you, as the head of ORR, have
19 concerns that children who are in the UC program
20 have too many legal protections?

21 A. I don't approach the question that
22 way.

23 Q. Well, let me ask the question
24 again, though.

25 Do you, as the head of ORR, have

1 concerns that children in the UC program have too
2 many legal protections?

3 A. As the director of ORR, I just
4 implement the legal protections.

5 Q. You, at your U.N. presentation
6 earlier this week, talked about the agency
7 considering the legal framework involving
8 children in its custody. What were you referring
9 to when you said that?

10 A. The procedural -- the procedures by
11 which UAC weaves through the iteration process.

12 Q. Could you be more specific?

13 A. No. Not at this time. It's
14 deliberative.

15 Q. Well, does any part of the
16 statement you made at the U.N. pertain to the
17 particular obligation at TVP -- at TVPRA that
18 we've been discussing?

19 A. No.

20 Q. Beyond the TVPRA, do you understand
21 there to be any other legal obligations the
22 agency has that bear on other release or
23 replacement decisions? And I'm going to set
24 aside the Flores settlement.

25 Beyond Flores, are you aware of any

1 other legal obligations that bear on release or
2 placement decisions?

3 A. Yes.

4 Q. What's are those obligations?

5 A. Homeland Security Act, the U.S.
6 Constitution.

7 Q. And what's your understanding about
8 the U.S. Constitutional obligations that bear on
9 placements or releases?

10 A. That Congress writes the laws and
11 the administration then administers them.

12 Q. Okay. That sounds like a
13 separation of powers issue.

14 Do you understand the U.S.
15 Constitution to impose upon your agency any
16 substantive obligations when it comes to either
17 releasing or placing children?

18 A. Not directly.

19 Q. What indirect obligations do you
20 think it may pose?

21 A. The statutes and the court cases
22 that -- that guide our program.

23 Q. Okay. You mentioned that you
24 review certain of these decisions.

25 MR. DUNN: Mark that, please.

(Lloyd Exhibit Number 4, HHS online policy guide, bearing Bates Numbers HHS000001 through HHS000003, marked for identification as of this date.)

Q. All right. Mr. Lloyd, we've given you what's been marked as Lloyd Exhibit No. 4, which is a document produced to us in discovery bearing Bates stamp pages 1 through 3.

Is this a document you recognize?

A. Yes.

Q. What is this?

A. This is our policy guide, online policy guide.

Q. And you mentioned earlier a policy guide section that you believe specified your involvement in release decisions involving gang members. Is this the policy section you were referring to?

A. I believe so.

Q. Okay. So let me direct your attention to at least the last paragraph of this section 2.7.

Do you see that?

A. The last paragraph on this page?

Q. Yes.

1 A. 2.7.

2 Q. Yes. 2.7.

3 A. Page 3?

4 Q. Just 2.7.

5 A. Oh, I see.

6 Q. At the top section.

7 A. Okay.

8 Q. Am I -- is it correct to say that
9 section 2.7 is a policy guide section that
10 provides the standards for release of children in
11 UC -- in the program?

12 A. Yes.

13 Q. And I want to focus your attention
14 at the end of that section 2.7, which talks about
15 elevation of release decisions to the ORR
16 director.

17 Do you see that?

18 A. Yes.

19 Q. Okay. Is there a new requirement,
20 namely, the elevation, that was put in place when
21 you became the director last year?

22 A. Yes.

23 Q. Okay. This section says "The ORR
24 Director or designee makes release decisions for
25 children in these types of facilities."

1 Have you designated anyone else to
2 make these decisions?

3 A. The deputy director.

4 Q. Okay. And from time to time has
5 the deputy director made decisions without you
6 having to make the final decision?

7 A. Yes.

8 Q. Okay. Do you have any idea how
9 many such cases there are?

10 A. No.

11 Q. All right. When you talked about
12 having between 100 and I think you said 120 cases
13 that you had reviewed --

14 A. Yes.

15 Q. -- are those only the cases that
16 you personally reviewed and made the decision on?

17 A. Yes. There's a -- the answer to
18 the question is I reviewed.

19 Q. All right. So, to the extent that
20 a deputy director separately made decisions,
21 those would be on top of that 100 to 114?

22 A. It could be.

23 Q. It could be?

24 A. Right.

25 Q. Has the deputy director had

1 authority to make placement decisions -- excuse
2 me -- release decisions throughout your tenure?

3 A. I believe so.

4 Q. Has the deputy director had
5 authority to make release decisions as your
6 designee for any particular category of cases?

7 A. Yeah.

8 Q. What's that category?

9 A. That's what -- it's -- it's less
10 complicated cases having less to do with violence
11 and more to do with lower forms of misbehavior
12 and/or escape attempts.

13 Q. All right. So the deputy director
14 has had responsibility for cases that involve
15 lower forms of misbehavior and escape attempts;
16 is that correct?

17 A. Yes.

18 Q. Is there anything in writing that
19 spells out which cases you're reviewing versus
20 which cases the deputy is reviewing?

21 A. No. I trust the deputy's judgment.

22 Q. So how was that distinction between
23 the cases you're getting and that he or she is
24 looking at conveyed to the deputy?

25 A. In a conversation.

1 Q. All right. And is that a
2 face-to-face conversation?

3 A. Yes.

4 Q. To your knowledge, is there
5 anything in writing that spells out that --

6 A. No.

7 Q. -- distinction? And so I take it
8 for most of the time it was Mr. White who was
9 handling those cases?

10 A. Yes.

11 Q. And was he the one who would decide
12 whether or not a particular case was one for him
13 to review, as well as there being one for you to
14 review?

15 A. According to the framework we
16 discussed, yes.

17 Q. And is that true with his
18 successor?

19 A. Yes.

20 Q. And is she reviewing cases, as far
21 as you know?

22 A. Yes.

23 Q. Okay. And when Mr. White was
24 reviewing cases and he made a decision, would you
25 even learn of that decision?

1 A. Not necessarily.

2 Q. Have you ever seen a report that
3 lists cases that he alone has reviewed and the
4 outcomes of those reviews?

5 A. No.

6 Q. What was the reason why the new
7 director-level review of release decisions was
8 implemented in March of 2017?

9 A. There are a number of reasons. So
10 I can't boil it down to just one. One was in
11 order to gain visibility into the release
12 decisions of the most difficult cases.

13 The other is to gain accountability
14 for the release decisions within a program. And
15 the program that I run. So that if something
16 went wrong, then I wouldn't -- there wouldn't be
17 the appearance that it wasn't something that I
18 didn't own personally. And so it's -- it was in
19 an effort to gain account -- accountability for
20 myself and visibility.

21 Q. Any other reasons that you recall
22 for the institution of this director-level
23 review?

24 A. Well, there were a number of
25 highly -- high-profile cases involving UACs that

1 were making the news right around the time that I
2 joined the program. And that visibility and
3 accountability I think served to put the program
4 on -- on notice of how we're going to approach
5 the most dangerous or the potentially most
6 dangerous releases.

7 Q. Can you tell me -- you said there
8 are a number of high-profile cases. What were
9 those cases?

10 A. There -- there are, like I said, a
11 number of them. And some of the details run
12 together.

13 Q. Okay. Do you remember any of the
14 details?

15 A. Well, one -- one is -- was
16 internally high profile because it involved
17 litigation surrounding a former gang member and
18 the details of his story were fresh in mind.

19 Another were the alleged accounts
20 of rape in Montgomery County by UACs that were
21 later determined to be false allegations. And
22 there were some other instances, if memory
23 serves, in Fairfax County, Virginia of violence
24 incidents, and we were able to look into whether
25 there had been -- they had been involved in the

1 UAC program and confirm it.

2 Q. And what came of that?

3 A. The community safety policy.

4 Q. Okay. But what -- what came of the
5 incidents in Fairfax County, as far as you --

6 A. Oh, I don't recall.

7 Q. Okay.

8 A. Arrests and allegations surrounding
9 gang violence.

10 Q. All right. Who made the decision
11 to institute this director-level review?

12 A. I did.

13 Q. And did you make that in
14 consultation with anyone outside the agency?

15 A. No.

16 Q. Had you had --

17 A. Sorry.

18 Q. Go ahead.

19 A. I answered the question for the
20 department. I consulted within the agency and
21 the department, HHS.

22 Q. And when you say "HHS," who
23 specifically are you referring to?

24 A. I -- as a matter of course, I would
25 have reported on -- on the development of the

1 policy to Steve Wagner and Maggie Wynne.

2 Q. Was this policy your idea?

3 A. Yes.

4 Q. Had you considered instituting this
5 policy while you were the special adviser before
6 becoming the director?

7 A. No.

8 Q. Other than Mr. Wagner and
9 Ms. Wynne, did you have any conversations with
10 anyone else in government outside of ORR about
11 the creation of this new review?

12 A. No.

13 Q. Did you have any conversations with
14 anyone in the White House about this new review?

15 A. Before? After?

16 Q. Before.

17 A. No.

18 Q. Did anyone from the White House say
19 to you in sum and substance, there's a problem
20 arising from these incidents. You need to start
21 thinking about reviewing cases?

22 A. No.

23 Q. Did anyone other than Ms. Wagner
24 and Ms. Wynne have a conversation like that with
25 you?

1 A. No.

2 Q. Were there any documents that you
3 reviewed in deciding to institute this policy?

4 A. Just news reports.

5 Q. And regarding these reports of
6 these -- at least these two incidents, namely,
7 the one in Montgomery County and the one in
8 Fairfax County?

9 A. Yeah. We -- the agency ACF,
10 receives media clips every day. And they were --
11 they were among these media clips.

12 Q. And I'm sorry if I missed this.
13 The Fairfax County incident, did that involve
14 people who allegedly were gang involved?

15 A. Yes.

16 Q. Was your primary concern in
17 instituting this policy a concern about release
18 of gang members into the community?

19 A. In one of the -- one of the primary
20 concerns.

21 Q. What would be another primary
22 concern?

23 A. The safety of the UAC themselves.
24 The other UACs in custody with them.

25 Q. All right. Is that going to the

1 issue of placements as opposed to release?

2 A. Mostly.

3 Q. All right. So in terms of at least
4 instituting the policy of your or your designee
5 personally reviewing and approving releases, is
6 it correct that your primary concern in
7 developing that review was the concern about gang
8 members being release into the community?

9 A. Well, people who are potentially a
10 danger to others being released into the
11 community. Often gang members are a subset.

12 Q. All right. You said earlier that
13 the gang member concern was a primary concern.

14 Are you suggesting that there are
15 other forms of danger that were as much of a
16 concern as the gang concern when it comes to
17 safety?

18 A. Yes.

19 Q. Okay. What are those -- those
20 other categories?

21 A. General violence not related to a
22 gang.

23 Q. Okay. When you adopted the policy,
24 did you know -- have any episodes of
25 nongang-related violence perpetrated by someone

1 released from the UC program?

2 A. I don't know.

3 Q. Okay. We know that the two
4 incidents, at least as you recall as sit here
5 today, were both gang incidents; is that correct?

6 A. Yes.

7 Q. All right. With respect to -- can
8 we go back to 2.7 for a moment.

9 A. Yes.

10 Q. I just want to make sure I
11 understand exactly what this applies to.

12 So is it correct that -- setting
13 aside the language just for the moment -- that
14 under this policy any child in ORR custody in the
15 UC program who is or has been in a secure or
16 staff secure placement at any time cannot be
17 released unless you or your designee personally
18 approve the release?

19 A. Yes. That's correct.

20 (Lloyd Exhibit Number 5, 3/14/17
21 UCPolicy(ACF) email, bearing Bates
22 Number HHS000015, marked for
23 identification as of this date.)

24 Q. All right. Mr. Lloyd, I'm showing
25 you a document that's been produced to us in

1 discovery. It's Bates stamped H15. It is a
2 March 24, 2017, email at 1:24 p.m. It appears to
3 be an email coming from ORR announcing a new
4 policy of release reviews.

5 A. Okay.

6 Q. Is this an email you've seen
7 before?

8 A. I don't think I have seen it.

9 Q. Let me direct your attention to the
10 highlighted text near the top. I don't know
11 who's highlighting this is, but it reads "Federal
12 Field Specialists may not approve a release from
13 a secure or staff secure facility until they
14 receive notification from Jonathan to approve the
15 release."

16 This could be construed to talk
17 about placement changes, as opposed to releases
18 to a sponsor. And I just want to make sure I
19 understand again that 2.7, as you understand it,
20 concerning your review is a release decision to a
21 sponsor, for instance, as opposed to movements
22 amongst placements; is that correct?

23 A. Yes. That's correct.

24 Q. Okay. All right.

25 A. And I am not typically involved in

1 the transfer process.

2 Q. What is the reason why you chose to
3 have your review or the review of your designee
4 for all children who are or had been in either a
5 secure or staff secure placement?

6 A. What was my reason for instituting
7 the policy?

8 Q. With respect to that particular
9 population.

10 A. As opposed to other populations.

11 It's again visibility and
12 accountability over the release of those who
13 could be or are potentially the most dangerous
14 elements of our program, individuals in our
15 program.

16 Q. Well, for instance, let's just take
17 children who at some point were in staff secure
18 who might now be in shelter.

19 A. Uh-huh.

20 Q. Do you have any reason to think
21 that some significant percentage of them would
22 present a current danger?

23 A. Of staff secure?

24 Q. People who are in shelter who had
25 been in staff secure.

1 A. In shelter. A significant -- could
2 be a danger. If they're a danger, they're not
3 going to be released.

4 Q. Okay. I'm just trying to
5 understand, for instance, kids who are currently
6 in secure, presuming they are kids who the agency
7 has determined right now present the greatest
8 issues.

9 A. Correct.

10 Q. But there are on the spectrum kids
11 who were in staff secure sometime ago and now
12 step down to the shelter, one can say are at the
13 other -- are at the other end of the spectrum?

14 A. Yes.

15 Q. So what is it about, for instance,
16 kids who are in shelter who had been in staff
17 secure at some point in the past but have been
18 stepped down, why in your mind is it appropriate
19 for them to be subject to director-level review?

20 A. Well, they've done something that
21 warranted step-up into staff secure.

22 Q. When you instituted the policy, did
23 you make any effort to assess the characteristics
24 of the population at that time who had been in
25 staff secure or secure placements?

1 A. The character of the population?
2 Q. The characteristics of them?
3 A. Characteristics. No.
4 Q. Okay. What information, if any,
5 did you have about children in ORR custody at the
6 time you adopted the policy who had been either
7 in secure or staff secure placements?

8 A. Well, that there were those among
9 our shelter population who had been in secure,
10 staff secure, and who had been stepped down.

11 Q. Would it be fair to say that's the
12 sum total of what you knew about that population?

13 A. Which population?

14 Q. The children who, at the time you
15 adopted the policy, had been either in staff
16 secure or secure.

17 A. Yes.

18 Q. Did you make, in conjunction with
19 the adoption of that policy in March of last
20 year, any effort to determine the number of
21 children who were going to be covered by the
22 policy?

23 A. We had a general idea already from
24 information we had gleaned for other purposes.

25 Q. Okay. What was your general sense

1 of how many people would be subject to the
2 policy?

3 A. Well, it's -- it's -- it was driven
4 by the numbers that we -- we already knew were in
5 the secure and staff secure pop -- populations.

6 Q. All right. That would tell you how
7 many people were in secure or staff secure, but
8 would not tell you how many people had been?

9 A. Right.

10 Q. Did you have any reasonable
11 estimate or make -- put it this way: What effort
12 did you make, if any, to estimate the number of
13 people that would be subject to the policy when
14 you instituted it?

15 A. We didn't make an effort.

16 Q. Okay. Are there any written
17 criteria that govern your review or the review of
18 your designee with respect to this population of
19 kids when you were assessing whether or not they
20 should be released?

21 A. Written criterion is in our
22 statute: Dangerous to one's self or to the
23 community.

24 Q. All right. So that's -- that's the
25 criterion that you're using for your review?

1 A. Yes.

2 Q. Okay. Any other criterion that
3 you're using?

4 A. Any other criteria that are outside
5 our statute would be inappropriate.

6 Q. Well, you have a policy guide that
7 has lots of information in it. But is it fair to
8 say that the primary thing you're looking at when
9 you review a case is dangerousness?

10 A. Yes.

11 O. Okay.

12 (Lloyd Exhibit Number 6, AC&F
13 publication regarding FAQ:ORR Director's
14 Release Decision, bearing Bates
15 Numbers HHS000006 and HHS000007, marked
16 for identification as of this date.)

17 Q. All right. Mr. Lloyd, I'm showing
18 you a document that's been produced in discovery.
19 It's Bates stamped pages 6 and 7. And it is
20 labeled "Division of Policy and Procedures
21 FAO:ORR Director's Release Decision."

22 Is this a document you've seen
23 before?

24 A. Yes.

25 O. Do you know when this document was

1 issued?

2 A. No.

3 Q. Let me direct your attention to the
4 very end of the document. So there's a question
5 and an answer?

6 A. Yes.

7 Q. And you'll see it reads in part,
8 "The ORR director assesses each case individually
9 under the same ORR release policies used to
10 approve or deny a release to a sponsor found in
11 the ORR Policy Guide, section 2.7"?

12 A. Yes.

13 Q. Do you understand this question and
14 answer to be a statement that you are applying
15 2.7, or the standards in 2.7 to make release
16 decisions?

17 A. Yes.

18 Q. So let's go back to 2.7, which is
19 in the exhibit you already have.

20 When you are making a release
21 decision, do you sit there and use section 2.7 in
22 assessing that decision? Because it has a number
23 of criteria in it.

24 A. I don't have 2.7 out in front of me
25 when I make the release decision.

1 Q. Okay. Is there anything that's in
2 the Exhibit No. 6 that we just showed you, that
3 FAQ that's not dated, in that language that is
4 inconsistent with your -- what you understand to
5 be a practice when you review release decisions?

6 A. No. Except that it could say -- it
7 could say "or the director or his designee
8 assesses," but then it references 2.7, which
9 provides clarity.

10 Q. When you are assessing safety or
11 dangerousness, are you working from an assessment
12 that comes from someone in the field or are you
13 assessing it anew?

14 A. Yes. I am -- I'm working from a
15 recommendation from the field. And also the
16 deputy makes a recommendation as well.

17 Q. Okay. So we'll come back to that.
18 I want to make sure I'm -- it's clear about the
19 policies here.

20 Are there any timelines that you
21 know of that govern your review process?

22 A. As soon as possible.

23 Q. Okay. Is there anything in writing
24 that you know of that constitutes a required
25 timeline for you to complete your review process?

1 A. No. Apart from -- without
2 unnecessary delay under our statute.

3 Q. Namely, the requirement of a prompt
4 placement? Is that what you're referring to?

5 A. At least without unnecessary delay.

6 Q. Okay. But in terms of beyond
7 whatever's in the statute, you don't know of
8 anything in writing that prescribes a time period
9 during which you have to complete your review?

10 A. No. It's a individualized
11 assessment each time.

12 Q. Well, I understand that. But
13 you're saying you don't know of any written
14 requirement that there -- your assessment be
15 completed within a specified period of time?

16 A. No. A written standard would cut
17 against the individualized nature of the
18 exercise.

19 Q. Okay. Let me direct your attention
20 in section 2.7, the -- your policy guide.

21 A. Yes.

22 Q. Go to 2.7.7, which is a section
23 labeled "Notification of Denial."

24 A. Yes.

25 Q. Are you familiar with that section?

1 A. Yes.

2 Q. Okay. The first sentence of that
3 section, if you could just read it to yourself.

4 A. Of 2.7.7?

5 Q. Uh-huh.

6 A. "If the ORR Director denies
7 reunifica" -- to myself? I'm sorry.

8 Q. I said to yourself. You can read
9 it out loud for the record. That's fine.

10 A. ". . . the reunification
11 application of an unaccompanied alien child's
12 parent or legal guardian, the ORR Director
13 notifies the parent/legal guardian by sending a
14 denial letter to the parent/legal guardian within
15 30 business days of receiving all the required
16 information and documentation in a specified
17 [specific] case."

18 Q. Okay. Do you -- having seen this
19 now, is this a timeline that requires you to
20 complete your review within 30 business days of
21 receiving all the information for the case?

22 A. Yes.

23 Q. All right. So were you unaware of
24 this when you answered the question before?

25 A. No. I had -- it doesn't -- it

1 rarely gets anywhere near 30 business days.

2 Q. Okay. So with respect to the
3 triggering of this, when it says "of receiving
4 all the required information," what does that
5 refer to, as you understand it?

6 A. The -- the -- all of the
7 information that's a part of the sponsor, family
8 reunification packet.

9 Q. And that's receipt by whom or by
10 what?

11 A. That would be by the program and
12 case manager.

13 Q. That's somebody in the field?

14 A. Yes.

15 Q. Okay. So you're saying that the
16 30-day business day clock in this section starts
17 running when that information is provided to the
18 case manager in the field.

19 How does the agency keep track of
20 the 30 business days that start running upon
21 receipt of that information?

22 A. At the -- in -- in the field level.

23 Q. Do you know how they actually do
24 it?

25 A. Upon -- they begin counting

1 business days upon receiving all of the
2 information.

3 Q. But do you know how they track
4 compliance with this?

5 A. Well, it becomes part of the UAC's
6 record that all of the information is received,
7 and then they're able to count 30 business days.

8 Q. Okay. Do you know of any system
9 that's in place within ORR to track compliance
10 with this 30-business-day requirement?

11 A. This is it. The policy.

12 Q. Well, I understand it's a mandate.
13 What I'm asking you is, in terms of compliance
14 with the mandate, do you know of any system
15 that's in place by which the agency actually
16 monitors and tracks compliance with the mandate?

17 A. No. I don't think that -- that the
18 agency goes out of the mandate.

19 Q. I'm not asking if you go out of it.
20 I'm asking if you have any way to measure
21 compliance with it.

22 A. Denials to parent and legal
23 guardian are very rare. And so therefore it's
24 such a case-by-case basis that those who are
25 handling the case are well aware of how far into

1 the 30 business days they are.

2 Q. Is it your understanding this
3 30-day clock only applies if a release is denied?

4 A. Yes.

5 Q. All right. So do you know of any
6 comparable, and I don't mean 30-business-day
7 comparable, but at any timeframe that governs the
8 period of time in which the agency has to decide
9 to approve a release?

10 A. Without unnecessary delay.

11 Q. Well, I understand that notion,
12 which you previously said comes from the legal
13 statute.

14 A. It's a legal mandate. It's not a
15 notion.

16 Q. All right. The legal mandate of
17 the statute?

18 A. Yes.

19 Q. All right. Beyond what the statute
20 provides, is there any agency policy that you
21 know of that prescribes a specific period of time
22 in which approvals of release must be made?

23 A. My understanding is that the
24 statute is the policy.

25 Q. Do you know of any written policy

1 of the agency that includes such a specific
2 timeline?

3 A. The timeline is without unnecessary
4 delay.

5 Q. Mr. Lloyd, I don't want to burn up
6 a lot of time here, but I'm asking a very
7 specific question, and I'd appreciate it if we
8 could try to get to the answer.

9 A. Sure.

10 Q. Do you know of any written policy
11 from -- the agency has in place that provides a
12 specific timeline by which approvals of release
13 have to be made?

14 A. There's not a specific timeline.
15 The timeline is as -- without unnecessary delay
16 on a case-by-case basis.

17 Q. Are you aware that this 30-day
18 business policy for denials was changed in 2017?

19 A. Yes.

20 Q. And do you understand that changed
21 from seven days to 30 days?

22 A. Yes.

23 Q. And why was it changed from seven
24 days to 30 days?

25 A. To -- to give the -- give enough

1 reasonable amount of time for the agency to
2 perform its review.

3 Q. At the time that the policy was
4 changed, do you know the extent to which the
5 agency was complying with the seven-day
6 requirement?

7 A. No.

8 Q. As you sit here today, do you have
9 any idea of the extent to which, since the 30-day
10 requirement was put into place, the agency has
11 complied with the 30-day requirement?

12 A. Yes.

13 Q. What's your understanding of that?

14 A. Very high, if not complete.

15 Q. And what's the basis on which you
16 have that understanding?

17 A. Well, I -- I do the denials, so
18 I -- I have some involvement of each of these
19 denials. So visibility on -- on those instances.

20 Q. So when you say you do the denials,
21 does that mean that any time a release is going
22 to be denied you're the one who makes that
23 decision?

24 A. As the director, denies, yes.

25 Q. Okay. But is the deputy director

1 authorized pursuant to your designation to deny
2 releases?

3 A. No.

4 Q. Okay. So all releases --

5 A. To parents and legal guardians.

6 Q. Right. You're the one who makes
7 the final decision on any denial; is that
8 correct?

9 A. Yes.

10 Q. Okay. Over the course of your
11 tenure, how many denials would you say you have
12 made?

13 A. A dozen or less.

14 Q. Okay. And with respect to that
15 dozen or less, do you have any information about
16 the extent to which those decisions were made
17 within the other seven or now 30 business days
18 from receipt of the documents from the field to
19 the case manager?

20 A. My understanding is that they were
21 all within the 30 days. And my expectation would
22 be that if we were outside the 30 days that I'd
23 be made aware of that.

24 Q. Okay.

25 MR. BYARS: Is this a good time for

1 a break? I don't want to interrupt your --

2 MR. DUNN: It's -- it's a break in
3 the question, so yes. We're going to go on to
4 the next topic.

5 MR. BYARS: All right. Very good.

6 THE VIDEOGRAPHER: Going off the
7 record at 2:27.

8 (Recess taken.)

9 THE VIDEOGRAPHER: We are going
10 back on the record at 2:40. This begins disk
11 No. 4.

12 BY MR. DUNN:

13 Q. Mr. Lloyd, in terms of the process
14 of reviewing release decisions at your level,
15 does any person or agency outside of ORR play a
16 role in that?

17 A. No.

18 Q. If I can, let me direct your
19 attention back to the ACS information memo.

20 A. Exhibit --

21 MR. BYARS: Do you have a specific
22 number?

23 MR. DUNN: That -- that's it right
24 there (indicating).

25 MS. PADMANABHAN: Exhibit 2.

1 MR. DUNN: This one?

2 MS. PADMANABHAN: Yeah.

3 Q. Let me direct your attention to
4 the -- actually, the third page of the memo.

5 A. Okay.

6 Q. The second paragraph talks about an
7 MOA with DHS.

8 A. Yes.

9 Q. And talks about consultation on the
10 suitability of release from secure and staff
11 secure facilities, and the suitability of
12 sponsors.

13 A. Yes.

14 Q. Can you just review to yourself
15 that paragraph.

16 A. Okay.

17 Q. Since this memo from August of 2017
18 has there been any sort of agreement entered with
19 DHS about it playing a role in release decisions?

20 A. Yes.

21 Q. And what's the agreement now with
22 DHS about its role in release decisions?

23 A. It's along the lines of
24 information sharing. So it solidifies what
25 information we receive and what information they

1 receive.

2 Q. Okay. When ORR is making a
3 decision to release, or whether to release a
4 child, is it consulting with the DHS personnel
5 during the course of that review?

6 A. No.

7 Q. All right. At any time when you
8 are reviewing a particular case, do you consult
9 with someone at DHS before you make a final
10 decision?

11 A. No.

12 Q. Do you understand Mr. White or his
13 successor have done that when they are reviewing
14 cases?

15 A. Yes. But it -- it's in order to
16 gather more information. So it's not
17 consultation. It's information sharing.

18 Q. So would it be fair to say that, at
19 least from your perspective as you understand it,
20 DHS has no say in whether a child is released or
21 not from ORR custody?

22 A. Yes. That's right.

23 Q. And is it fair to say that the
24 process for making the decision does not require,
25 before the final decision can be made, a

1 consultation with DHS?

2 A. Consultation, no.

3 Q. Is there a document now that exists

4 that reflects this arrangement with DHS?

5 A. Yes.

6 Q. And what is that document?

7 A. It's a memorandum of agreement.

8 MS. FABIAN: Can we take a quick

9 break?

10 MR. DUNN: Can we take a quick

11 break?

12 MS. FABIAN: Yeah.

13 MR. DUNN: Of course.

14 MS. FABIAN: Thank you.

15 THE VIDEOGRAPHER: Going off the

16 record at 2:44.

17 (Recess taken.)

18 THE VIDEOGRAPHER: Going back on

19 the record at 2:46.

20 MR. DUNN: All right. Let the
21 record reflect that the witness stepped out with
22 his counsel. We're back on.

23 BY MR. DUNN:

24 Q. Is there something you want to say
25 now?

1 A. Let's just return to the question,
2 if we could.

3 Q. Okay. Well, the question was asked
4 and answered.

5 A. Okay.

6 Q. Do you want to change your answer
7 or amend your answer?

8 A. I don't remember the question,
9 sorry.

10 Q. Okay. On those occasions where you
11 might be getting information from DHS as part of
12 the review process, what type of information
13 would you be getting?

14 A. From DHS?

15 Q. Yes.

16 A. It's a -- it's a list of forms that
17 DH -- DHS uses, and in various situations. So if
18 there's known criminal activity or criminal
19 record, they use a form and -- and we would
20 receive that as pursuant to an MOA.

21 Q. And would you be receiving that at
22 the point at which you or your designee are doing
23 the review or that would have already been
24 collected as the case was coming up to you?

25 A. Yeah. It would have been collected

1 as it was coming -- coming up to me.

2 Q. All right. So does that mean that
3 once you get the case you're not at that stage
4 then, independently or in addition, seeking
5 information from DHS?

6 A. That's currently the case, yes.

7 Q. It's currently the case that you
8 are not seeking information once you have the
9 case?

10 A. Yes.

11 Q. Okay. Was that previously not the
12 case?

13 A. Very early there were occasions
14 where we were receiving like secondhand reports
15 of criminal activity, summaries where we wanted
16 to drill down into the source documents.

17 Q. You were receiving those secondhand
18 from DHS?

19 A. Yeah.

20 Q. Okay. And then that would prompt
21 you to go figure out if what's in the documents
22 from DHS was in fact accurate?

23 A. Yes.

24 Q. Okay. Can you estimate in how many
25 instances that scenario happened?

1 A. Three to four.

2 Q. In terms of that information being
3 collected before you got the case, is it being
4 collected by field staff or by other headquarters
5 staff before you and Mr. White, when he was the
6 deputy director?

7 A. Now it's collected by field staff.

8 Q. And previously it had been
9 collected by headquarters staff?

10 A. Yeah. Where -- where the records
11 seemed incomplete, headquarters staff was -- was
12 involved, mainly Jim De La Cruz.

13 (Reporter-initiated discussion off
14 the record.)

15 Q. Okay. Other than consultations
16 with DHS, is there any other federal agency that
17 is playing any role in the review process that's
18 being conducted at the headquarters level of
19 release decisions?

20 A. You said other than DHS?

21 Q. Yes.

22 A. No.

23 Q. Okay. Is any nonfederal agency,
24 such as a local law enforcement agency, playing
25 any role in the headquarters-level review process

1 for release decisions?

2 A. No.

3 Q. Okay. You had mentioned before the
4 community safety initiative?

5 A. Yes.

6 Q. Can you describe for me what that
7 was or what it is?

8 A. It's a -- it's a number of steps
9 that are taken in order to ensure that our
10 releases are duly mindful of concerns over
11 community safety.

12 Q. Okay. And what were the specific
13 steps that you took that you recall?

14 A. They're outlined in this -- in this
15 memo.

16 Q. Okay. And this memo, just to be
17 clear, is marked as Lloyd Exhibit 4?

18 A. Yes.

19 Q. Is that correct? The ACS memo from
20 August 2017?

21 MR. BYARS: I'm sorry, it's
22 Exhibit 2?

23 MS. FABIAN: Exhibit 2.

24 MR. DUNN: Just making sure
25 everyone's still awake.

1 MR. BYARS: Thanks for that.

2 MR. DUNN: Sure. The public
3 service I'm doing.

4 Q. Okay. At whose initiative did the
5 community safety initiative take place?

6 A. Mine.

7 Q. Yours.

8 A. In consultation with UAC staff.

9 THE COURT REPORTER: With what
10 staff?

11 THE WITNESS: UAC staff leadership.

12 Q. Okay. And was there something in
13 particular that prompted this initiative?

14 A. Yes. This was -- we -- we kind of
15 covered this. This was -- this was where we --
16 there was a number of news reports and a desire
17 for accountability and visibility.

18 Q. All right. I'm sorry. I
19 understood those news reports to have been things
20 that happened around when you became the
21 director?

22 A. Yes.

23 Q. All right. I see.

24 So this is still connected to those
25 news reports; is that correct?

1 A. Yes. And so around the time that
2 the release decisions were modified, these other
3 steps were implemented and then reported up.

4 Q. Now, you previously, when I was
5 asking you questions about various meetings you
6 had had, and we're talking about White House
7 meetings, you mentioned, as part of your
8 conversations with Steven Miller, the community
9 safety initiative?

10 A. Yes.

11 Q. All right. So let's tie that
12 together.

13 What specific role did Mr. Miller
14 have in the community safety initiative?

15 A. None.

16 Q. All right. So is it your testimony
17 that you told him about it but that's something
18 that had already happened?

19 A. Yes.

20 Q. All right. And why did you tell
21 him about it?

22 A. As part of the background of -- of
23 the UAC program.

24 Q. All right. Did anyone outside of
25 ORR play any role in the initiative that's

1 described here?

2 A. Yes.

3 Q. And who played a role in that?

4 A. Personnel from the Department of
5 Justice and Department of Homeland Security.

6 Q. And what role did they play?

7 A. At the outset in determining what
8 improvements the -- if any, the UAC program
9 needed to make, we had a number of consultations
10 with DOJ and -- and DHS.

11 Q. And were those on particular
12 topics?

13 A. Just -- just on the question of
14 dangerousness and community safety that appears
15 in the -- in our statutes. It's -- we weren't
16 desiring the law enforcement perspective on
17 those.

18 Q. And would it be fair to say, given
19 the content of this memo, that the central factor
20 in the community safety initiative was dealing
21 with gang affiliation amongst children who were
22 in UC -- in the UC program?

23 A. I would say that was a galvanizing
24 issue.

25 Q. Is there any other issue you would

1 describe as being that important, namely, the
2 galvanizing issue?

3 A. No.

4 Q. On the second page of this memo, in
5 the -- below the headline "Community Safety
6 Initiative," there is a bullet of sorts that's
7 headlined "No current gang members are eligible
8 for release to a sponsor from the program."

9 Do you see that?

10 A. Yes.

11 Q. Is the sentence in this document
12 the announcement of a new release policy that the
13 agency would put into effect?

14 A. Yes.

15 Q. Okay. Do you know of any --

16 A. Or gloss on any existing policy.

17 It could be -- it could be either a new policy or
18 gloss on an existing policy --

19 Q. Right.

20 A. -- regarding dangerousness.

21 Q. What existing policy do you know of
22 that stated that a current gang member was
23 ineligible for release?

24 A. Just that -- that our release
25 decisions are subject to considerations involving

1 dangerousness.

2 Q. Do you know of any document
3 anyplace else that explicitly states that
4 individuals whom the agency considers to be
5 current gang members are not eligible for release
6 to a sponsor?

7 A. No.

8 Q. For purposes of this policy, what
9 defines a current gang member?

10 A. Avowed or known gang membership
11 that has not been disavowed.

12 Q. You talked earlier about there
13 being programmatic awareness about gang
14 affiliation?

15 A. Yes.

16 Q. How is that communicated, if it was
17 at all, to field staff?

18 A. Programmatic awareness of gang
19 affiliation.

20 Q. Yes. I mean, I -- I take it that
21 what you meant to say, but I don't want to put
22 words in your mouth, was that the leadership of
23 the agency had communicated to agency staff that
24 agency staff was to pay very close attention to
25 possible gang affiliation.

1 A. Okay.

2 Q. Is that fair?

3 A. Yeah.

4 Q. Okay. How was that communicated to
5 agency staff?

6 A. This would be in communications
7 from the deputy director to the staff through the
8 federal field staff.

9 Q. Do you know of any particular
10 communication that addressed that particular
11 issue that in substance said we are telling you
12 now to pay very close attention to potential gang
13 affiliation?

14 A. I wouldn't be able to nail it down
15 to a particular email or if it was a conference
16 call. So the answer is pretty much no.

17 Q. Are there any written standards
18 that you know of that govern whether or not
19 someone qualifies as a current gang member for
20 purposes of the policy announced here barring
21 release to a sponsor for current gang members?

22 A. It's not written. It's a
23 program-wide understanding.

24 Q. What do you believe to be the
25 program-wide understanding about the content of

1 the definition of "current gang member"?

2 A. If there is known or -- or avowed
3 membership that has not been disavowed.

4 Q. Is there a process by which agency
5 staff ask the juvenile whether they are
6 disavowing gang membership?

7 A. It's an individ -- individualized
8 process.

9 Q. Well, I understand that. But is
10 it -- is it your understanding as a matter of
11 practice some member of the agency or employee of
12 the agency actually directly asks the child in
13 your custody if they are disavowing a gang
14 membership?

15 A. It would be a necessary element of
16 a release review where a gang membership is a --
17 is an issue.

18 Q. All right. And so just to be
19 clear, when you say "a necessary element," that
20 means that, in your mind at least, it is
21 necessary for someone from the agency to
22 expressly ask the child in custody, "Are you
23 disavowing gang membership"?

24 A. Where there has been no disavowal,
25 which is very rare.

1 Q. When there has not been disavowal.

2 So what I'm trying to understand is -- I'm just
3 trying to understand the decision-making process.

4 You're saying what disqualifies you
5 from release under this policy is you are an
6 avowed gang member, that's an affirmative
7 statement, or you have not disavowed it?

8 A. Yes.

9 Q. So what I'm trying to understand is
10 how it is you, as an agency, ascertain whether or
11 not someone is disavowing gang membership?

12 A. The -- the instances that I have
13 seen and I'm aware of, this becomes part of the
14 significant incident reports that accompany a
15 complete case file. And so there would be --
16 where -- wherever there's -- wherever there's an
17 indication of gang membership, affiliation, past
18 or present, there's follow-up at the clinical
19 level as to what exactly that means. And that
20 becomes a part of the record that's developed.

21 Q. But I take it you understand
22 there's a lot of territory between suspected gang
23 affiliation and avowed gang membership?

24 A. It's a spectrum.

25 Q. Okay. So as I understand your

1 testimony, you're saying this policy applies only
2 to those children who say, "I am in a gang," or
3 when confronted with that accusation refuse to
4 disavow their membership in a gang?

5 A. That's correct.

6 Q. Okay. And I'm just trying to
7 understand, does the agency, as a routine matter,
8 go to a child and say, "We believe you're in a
9 gang. Do you disavow that?" as a condition of
10 determining whether or not this policy applies to
11 them.

12 A. Yeah. It -- that's -- what you're
13 saying is generally accurate. It's not exactly
14 in term -- in the specific terms of disavowal.
15 It's more along the lines of "What is your
16 current status as a gang member" or . . .

17 Q. Okay. And you're saying if the kid
18 says "I'm MS-13" --

19 A. Yeah.

20 Q. -- you conclude the kid is a
21 current gang member?

22 A. Yes.

23 Q. All right. How many --

24 A. And there are -- there are some who
25 are proud to be a gang member and -- and want

1 everybody to know it.

2 Q. Okay. All right. How -- how many
3 children in ORR custody today, as far as you
4 know, are current gang members, for purposes of
5 this policy?

6 A. I would say about a dozen. But
7 this is an estimation.

8 Q. It's a big agency. Everything is
9 an estimation. I understand that. Okay.

10 And so would it be fair to say that
11 there are -- okay. For at least those dozen,
12 approximately, they're disqualified from
13 potential release?

14 A. Yes.

15 Q. All right. Let's talk about the
16 process by which you review cases. So if you
17 could, just as an initial matter, walk me through
18 the actual process from your learning that
19 there's a case to review to your final decision,
20 what's the step by step of that?

21 A. Okay. I receive -- if we -- so the
22 process has developed a little bit over time.
23 But I receive an email that previously had in the
24 body of the email contained a write-up from the
25 deputy director, along with any relevant

1 documents to the write-up. That would contain
2 the pertinent information for me to review it and
3 release a decision.

4 From that email I would know which
5 documents to examine, if further examination was
6 necessary. It would also contain a
7 recommendation from the deputy director. Now
8 this -- all that information is contained in a
9 form that we've been piloting and are getting
10 close to finalizing.

11 Q. Okay. So let's set aside the new
12 form for the moment. Let's just keep going with
13 the process that existed before this form.

14 So you get the email with the
15 write-up, with the documents, with the
16 recommendation. What do you do next?

17 A. Open -- open the email, read the
18 summary and examine background documents, if
19 necessary, for example, significant incident
20 reports. That's usually the main thing. And
21 then if -- if any of the documents or any part of
22 the summary require follow-up, I'll ask of the
23 deputy director what it is I -- I would like more
24 information about.

25 Q. And how would you typically ask

1 that?

2 A. Just respond to the email, and very
3 quickly ask about whichever element.

4 Q. And is that a common sequence where
5 you would ask for some more information?

6 A. It's common.

7 Q. Okay. All right.

8 So then what's next?

9 A. If -- if there's nothing to follow
10 up on, I respond with my -- my answer. I would
11 go into the body of the email, cut and paste the
12 name and alien number of the -- of the UAC so it
13 was clear who I'm referring to. And hit reply.

14 And then I would receive a
15 confirmation that the deputy director received it
16 and was notifying the field. In the instances
17 where there's more follow-up then I would just
18 expect an email follow-up in the form of a reply
19 to the earlier email which helps, so we can
20 examine the email chain.

21 And -- and I review the additional
22 information and on occasion that -- that leads to
23 other questions. But usually it's -- it's enough
24 to make a decision. And then I make the decision
25 upon the follow-up information.

1 Q. In terms of the documents that you
2 would get with the email, was there a standard
3 set of documents you'd receive?

4 A. No.

5 Q. Are there particular documents that
6 you would receive regularly, even if the entire
7 package was not a consistent package?

8 A. Significant incident reports.

9 Q. Any other documents that you would
10 routinely get?

11 A. Oh, yeah. The -- the release
12 recommendation from the field staff.

13 Q. How did Jonathan White -- well, let
14 me -- this is all coming from Jonathan White, at
15 least while he was a deputy?

16 A. Yes.

17 Q. How did he know which documents to
18 send you for any particular decision?

19 A. It -- it was a judgment call on his
20 part. And he got to know what it was I was
21 looking for from the questions I was asking in
22 the beginning. And so there -- there are --
23 there can be in any file a number of -- what I
24 guess I could say is that programs overreport
25 incidents out of an abundance of caution.

1 So one teenage boy slaps another
2 teenage boy with a towel. That's an
3 insignificant incident report but it's not going
4 to affect a release decision.

5 Q. All right. So the two categories
6 of documents that you mentioned you would
7 routinely receive were SIR, or the SIR reports,
8 and recommenda -- release recommendations from
9 field staff?

10 A. Uh-huh.

11 Q. Any other types of documents that
12 you would normally get from Mr. White?

13 A. If there -- yes. Psycho --
14 psychological evaluations where that's occurred.
15 And in some cases recidivism analyses, which have
16 names that I -- I don't remember the -- avoid
17 test on recidivism-type activity.

18 Q. And, as I understand your
19 testimony, there's no written listing documents
20 you're supposed to get, that that -- the
21 documents you were getting, at least from
22 Mr. White, were the product of just you having
23 worked together and him learning what documents
24 you'd want to see in cases you were reviewing.

25 Is that fair?

1 A. Yes. But if I felt that it was
2 incomplete, I would have access to the SharePoint
3 of all the -- all documents.

4 Q. And would there come times when you
5 would go to SharePoint to pull up documents for
6 purposes of your case review?

7 A. Yes.

8 Q. And you have direct access to it?

9 A. Yes.

10 Q. Okay. How common was it that you
11 were taking documents from SharePoint?

12 A. Not common. The minor -- minority
13 of cases.

14 Q. Other than asking Mr. White for
15 information or ask -- or getting information from
16 SharePoint, were there other ways that you were
17 getting additional information as you were
18 reviewing a possible release decision?

19 A. No.

20 Q. Did you at any point ever have
21 direct contact with field staff, in terms of
22 trying to collect more information, as you were
23 making a decision about a release?

24 A. I think so. I think they -- they
25 would sometimes be copied and I would reply all.

1 And I -- I think it's possible that there might
2 be one or two cases that were very involved where
3 there's a conference call and field staff, along
4 with Jonathan, were on the call.

5 Q. And you?

6 A. And me, yeah.

7 Q. Okay. So I'm just trying to
8 understand. You've gotten the case, you've
9 gotten the documents. You may want some more
10 information.

11 Are there instances there where you
12 are just going directly to an FFS, for instance,
13 or somebody else in the field to collect
14 information?

15 A. There may have been a few
16 instances, but it would be more like a way to
17 collapse the -- the structure so that everybody's
18 getting awareness at the same time, and it's
19 going directly to the people that have to act
20 upon it.

21 Q. In those instances where you're
22 collecting additional information, are you
23 hanging on to the case, or does the case come out
24 of your office and not come back to you until the
25 information's been collected?

1 A. More the latter.

2 Q. Okay. So would it be normal, for
3 instance, you get a package, you realize there's
4 more information you want that Jonathan might --
5 perhaps should collect. You would send the case
6 back to him and say, here's the additional
7 information I want. And he would then have it
8 for some period of time and then it would come
9 back to you again?

10 A. Yes.

11 Q. Okay. And what's your sense of --
12 in the number of instances in which that was
13 happening? I don't mean particularly in an issue
14 by Jonathan White, but when you're looking for
15 additional information and the case has gone back
16 to whomever, how common was that?

17 A. I would estimate it's in a quarter
18 of the cases.

19 Q. Okay. So just to put a little bit
20 of a number on this. You said earlier that you
21 thought that you probably yourself reviewed
22 somewhere between, I think, 100, 120 cases?

23 A. Yes.

24 Q. So if we take a quarter, maybe 25
25 cases or so you might have asked for additional

1 information, sent the case back to wherever, and
2 then subsequently got the case back to you; is
3 that correct?

4 A. That sounds right.

5 Q. Okay. So does that 25 number sound
6 like a ballpark correct number?

7 A. It sounds -- sounds good. I'm not
8 a numbers guy, though.

9 Q. Well, that's okay. And again I
10 realize -- I realize you have a lot of things on
11 your plate. So I'm just trying to get the best
12 sense --

13 A. Sure.

14 Q. -- besides your best guess in the
15 range of cases where that might be --

16 A. Yeah. That would be my best guess.

17 Q. Do you have any sense of how much
18 time it would take to get that additional
19 information?

20 A. That's -- that's a case-by-case
21 basis. But if it's an -- if it's an issue of
22 speaking to the -- to the clinical staff or to
23 the UAC themselves or to the family, it would be
24 shorter than if it involved gathering information
25 from law enforcement or something where another

1 agency is involved.

2 Q. Okay. Do you have a sense of the
3 range, approximately, of time it would take to
4 collect that additional information?

5 A. In the former case, reaching out to
6 the UAC or -- who was directly handling the UAC,
7 I would say 48 hours. And if -- if there's law
8 enforcement involved, I would say up to 72 hours,
9 the best estimate.

10 Q. And in terms of those two
11 categories for the 25 cases approximately, how
12 many of those would be law enforcement versus the
13 internal additional information?

14 A. I -- I don't know.

15 Q. Okay. During the course of your
16 review, in addition to looking at documents that
17 you received, would you consult with any in-house
18 staff about the case, or did you?

19 A. If -- sometimes the -- the back and
20 forth that I have with Jonathan was also person
21 to person and would involve other staff, like
22 Jallyn or -- Jallyn Sualog or Jim De La Cruz,
23 typically.

24 Q. Okay. What would be their role in
25 the consultation?

From: [REDACTED] (b)(6) (ACF)
Sent: Monday, October 07, 2013 10:15 AM
To: [REDACTED] (b)(6)
[REDACTED] (b)(6) (ACF)
Cc: De LA Cruz, James (ACF)
Subject: Re: REQUEST FOR TRANSFER RE: [REDACTED] (b)(6) new law in IL

[REDACTED] (b)(6)

Federal funds cannot be used for termination. This includes using Planned Parenthood (which is a federally funded program).

[REDACTED] (b)(6)
Federal Field Specialist
Health and Human Services
ACF/ORR/DCS
Phone: [REDACTED]

From: [REDACTED] (b)(6) (ACF)
Sent: Monday, October 07, 2013 10:10 AM
To: [REDACTED] (b)(6)
[REDACTED] (ACF)
Cc: De LA Cruz, James (ACF)
Subject: Re: REQUEST FOR TRANSFER RE: [REDACTED] (b)(6) new law in IL

Good morning [REDACTED] (b)(6) and team,

We'd be happy to take her in Chicago at CHAP or ICC especially if she has a young child. Heartland has a "history" of working well with Planned Parenthood in Illinois and of supporting our teens through this difficult process. However, we have a new "legal" issue you need to know about.

As of August 2013 a new law went into affect in Illinois (Illinois Parental Notification Abortion Law upheld by our state supreme court). The Parental Notice of Abortion Act requires doctors of girls 17 and younger to notify a parent 48 hours before the termination. The parents must sign a form acknowledging they received notification and the form becomes part of the teen's medical record. In order to bypass this form, the teen has to go to court before a judge to make this request. A judge may grant a waiver if they feel notification is not in her best interest (eg. cases of sexual abuse). I have read other exceptions may include medical emergency, neglect or physical abuse. Also in the absence of a parent, notification it appears may be given to an adult family member.

For our most recent transfer in this predicament ([REDACTED] UAC and her toddler arrived at CHAP about 2 weeks ago), the UAC preferred to tell her mother in COO and not her sponsor/sister in the US, and this disclosure call and request for signature was emotionally trying for her. Overall it went well and Heartland is now working to secure the signature on the form by the mother. Heartland also confirmed with Planned Parenthood that while ORR is the legal custodian/guardian for the UAC, the biological parent or adult family member per the IL state law, must sign the form. In this case, the

minor reported the pregnancy was a result of a one-night stand and did not want the father of her current child to know and also is not prepared to raise another child given her situation.

The other issue I see is how far along your UAC is in her pregnancy. I believe they will go past 17 weeks in Illinois (maybe up to 20) but the method changes and is more risky from what I hear. I can follow-up on this today with Heartland, if you need to know more specific about that piece for Illinois.

This law is a very new addition to the process and a significant one for our UAC and also is noted in their medical record. Also given the gov't/court shut down if your teen wanted a waiver, this would be another challenge.

Let me know your thoughts, I am happy to help in any way I can.

Thanks,

(b)(6)

(b)(6) M.S.
Federal Field Specialist/Midwest Region
U.S. Dept. of Health and Human Services
ACF/Office of Refugee Resettlement
Division of Children's Services
[REDACTED] office
(b)(6) cell
(b)(6) @acf.hhs.gov

From: [REDACTED] (ACF)
Sent: Saturday, October 05, 2013 11:00 AM
To: [REDACTED] (b)(6)
(ACF)
Cc: De LA Cruz, James (ACF)
Subject: Re: REQUEST FOR TRANSFER RE: [REDACTED] (b)(6)

Thanks [REDACTED]. Will wait to hear back from [REDACTED] (b)(6). Have a good day, Sir.

From: [REDACTED] (ACF)
Sent: Saturday, October 05, 2013 10:18 AM
To: [REDACTED] (b)(6)
(b)(6) (ACF)
Cc: De LA Cruz, James (ACF)
Subject: Re: REQUEST FOR TRANSFER RE: [REDACTED] (b)(6)

[REDACTED] (b)(6)

YFT would be unable to take this youth. YFT is a religious organization and is pro life. I just had a

UAC who requested that she wanted to terminate her pregnancy and I had to transfer her due to YFT position on abortion.

(b)(6) can you review.

I'm also coPying [REDACTED] to see if Chicago has capacity to take this youth.

I am still covering VA and NJ.

Thx

(b)(6)

Federal Field Specialist
Health and Human Services
ACF/ORR/DCS
[REDACTED]

From: [REDACTED] (b)(6) (ACF)
Sent: Friday, October 04, 2013 09:01 PM
To: [REDACTED] (b)(6) (ACF)
Cc: De LA Cruz, James (ACF); [REDACTED] (b)(6) (ACF)
Subject: REQUEST FOR TRANSFER RE: [REDACTED] (b)(6)

Hi, [REDACTED] (b)(6)

[REDACTED] (b)(6) I included the both of you here because I'm not sure who is covering [REDACTED] (b)(7)a's area at the moment.)

Please see attached transfer documentation packet and e-mail attachment containing the OBGYN pregnancy results.

I am checking with you to see if you have a Program that has bed space availability for a 17 y/o (dob [REDACTED] – note error on dob in documentation) from [REDACTED] (b)(6) who is 17-18 weeks pregnant. She had a relationship with a 23 y/o male who currently resides in [REDACTED] and consequently became pregnant from this relationship. She also has a 1 ½ y/o daughter from another relationship. She traveled alone to the U.S. to find her siblings and seek better life opportunities for herself and her daughter. She left her daughter in the care of family members in home country.

The UAC reports that two months ago she was feeling very sad and hopeless and experienced suicidal ideation. She then attempted to kill herself by ingesting “rat poison”. As she laid down to die, her baby daughter cried and she immediately began feeling very guilty about what she had done. She called a friend and was taken to the hospital where she remained hospitalized for one week. She was seen by a mental health provider (Psychologist) during her hospital stay, but was not

referred for outpatient mental health care after her discharge from the hospital. The UAC claims she did not know she was pregnant at the time she attempted suicide and is now very worried that the baby may have been affected by the poison she ingested. She has been contemplating having an abortion, and claims it is not only because of fear that the baby may have adverse effects from the attempted suicide incident, but also because she does not feel she is ready to take on the responsibility of having another child. She states she feels she cannot afford to take care of a baby and needs to concentrate on herself and her child right now.

At present, the [REDACTED] Shelter Clinicians are not reporting any mental health issues. Clinician reports that the UAC's main preoccupation is her pregnancy and reunification with siblings (brothers and sisters) who live in the East Coast area (Maryland and Pennsylvania). Thus far, the siblings are fearful of coming forth to sponsor the UAC and have suggested that a family friend sponsor the UAC, but the family friend backed out and said he would speak the UAC's siblings so they can come forward themselves as sponsors. It appears the siblings wanted the family friend to step in since he has legal status and have the UAC turned over to them at a later time. An FRP was provided to UAC's brother, [REDACTED] (b)(6) who resides in Maryland, but he has not submitted anything to the Program as of today.

In Texas, the cut-off for abortions is at 20 weeks gestation. UAC is 17-18 weeks as of today. It will be one week before we can get her into the "abortion counseling" session then another week to get the ORR Director's approval. Going forward with an abortion in Texas does not seem feasible due to the advanced pregnant state of the UAC. It is also not certain that the UAC will follow through with an abortion.

I am requesting transfer of this UAC to either New York or Virginia to a DCS Program that can assist the UAC explore abortion option.

Please let me know if any of your Programs can assist this UAC.

Thank you.

[REDACTED] (b)(6)

Federal Field Specialist
ACF/HHS/ORR/DCS
[REDACTED]

[REDACTED] (b)(6) @acf.hhs.gov

From: [REDACTED] (b)(6) @iestex.org]
Sent: Thursday, October 03, 2013 5:13 PM
To: [REDACTED] (b)(6) (ACF)
Cc: [REDACTED] (b)(6)
Subject: Possible transfer

Good afternoon,

Southwest Key does not have post release services in the East Coast. A safety plan has been put in place and [REDACTED] has been working with minor. At this time, we are just pending from ORR's directives on how to move forward.

(b) (6)

Assistant Program Director
Southwest Key Programs
Casa Blanca, San Antonio

(b) (6)

(b) (6)

SWKey Casa Blanca,

Now that we have more specific information in regards to the minor's pregnancy, can you please consult with Dr. (b) (6) to see what his recommendation is for the minor?

Also, does SWKey have Post Release services in Florida for this minor? Looking ahead, it would be beneficial for the minor to have a Post Release worker, who does not work for a religion-based agency, work with the minor and family to seek any medical services as deemed appropriate by the minor and her family.

Thank you,

(b) (6)

Case Coordinator
General Dynamics Information Technology
San Antonio Region

(b) (6)

-----Original Message-----

From: (b) (6)

Sent: Monday, April 28, 2014 11:50 AM

To: (b) (6)

Cc: [REDACTED]

EX-REF-0509-B-000865

From: [REDACTED] (b)(6) (ACF)
To: [REDACTED] (b)(6) (ACF)
Subject: Re: [REDACTED] (b)(6) (ACF)
Date: Monday, April 21, 2014 11:16:37 PM

No. I think its [REDACTED] (b)(6). Something about school.

----- Original Message -----

From: [REDACTED] (b)(6) (ACF)
Sent: Monday, April 21, 2014 09:21 PM
To: [REDACTED] (b)(6) (ACF)
Subject: Re: [REDACTED] (b)(6)

Regarding the same????

----- Original Message -----

From: [REDACTED] (b)(6) (ACF)
Sent: Monday, April 21, 2014 09:18 PM
To: [REDACTED] (b)(6) (ACF)
Subject: Re: [REDACTED] (b)(6)

I feel like there's someone else we need to respond to, but I can't remember who.

----- Original Message -----

From: [REDACTED] (b)(6) (ACF)
Sent: Monday, April 21, 2014 09:16 PM
To: [REDACTED] (b)(6) (ACF)
Subject: Re: [REDACTED] (b)(6)

Thank you [REDACTED] (b)(6) !! I was hoping you would respond!! Your the best!!!

----- Original Message -----

From: [REDACTED] (b)(6) (ACF)
Sent: Monday, April 21, 2014 09:07 PM
To: [REDACTED] (b)(6) (ACF); [REDACTED] (b)(6) (ACF)
Cc: [REDACTED] (b)(6) (ACF)
Subject: RE: [REDACTED] (b)(6)

Good evening [REDACTED] (b)(6)

Sorry for the delay in responding to you. After looking into this, Florida does not permit termination of a minor child's pregnancy without parental notification. However, both of the shelters in Florida are faith-based and will not take the child to have this procedure.

[REDACTED] (b)(6) MSW
Federal Field Specialist--Florida
U.S. Dept of Health and Human Services
ACF/ORR/DCS
[REDACTED]

From: [REDACTED] (b)(6) (ACF)
Sent: Friday, April 18, 2014 10:27 AM
To: [REDACTED] (b)(6) (ACF); [REDACTED] (b)(6) (ACF)
Cc: [REDACTED] (b)(6) (ACF)
Subject: FW: [REDACTED] (b)(6)

Good Morning [REDACTED] (b)(6) and [REDACTED] (b)(6)

This case is new and we are still working on the assessment but I want to be proactive and will like to

gather information on Florida's Parental Consent for Termination of Pregnancy.

(b)(6) is a 14 years old and she was rape during her journey. She speaks [REDACTED] and little of Spanish; we are trying to get an interpreter to ensure that she is understanding. She states she does not want to be pregnant.

Her sponsors (her parents) are in Florida. Minor does not want to let the parents know that she is pregnant.

I was contemplating the possibility of transferring minor to a State where there is no need for parental consent for the termination of pregnancy if she decides to move forward with the termination. Does Florida needs parental consent on a 14 years old child who was raped?

[REDACTED] BSW, LSW
Federal Field Specialist/West-Texas Region
Division of Children's Services
Office of Refugee Resettlement
Administration for Children and Families
U.S. Department of Health and Human Services

[REDACTED] (b)(6)@acf.hhs.gov
www.acf.hhs.gov/programs/orr/

From: [REDACTED] (b)(6) (ACF)
Sent: Thursday, April 17, 2014 7:57 PM
To: [REDACTED] (b)(6) (ACF); [REDACTED] (b)(6) (ACF); [REDACTED] (b)(6) (ACF) (CTR)
Subject: RE:[REDACTED] (b)(6)

(b)(6) regarding parental consent in Texas, I took the liberty to contact Judge [REDACTED] (Family District Court Judge and a good friend of mine) to verify the current law regarding parental consent in Texas when it involves a minor who was a victim of rape. The law is as follows:

At this time , 2014, in Texas, both parental notification "and" parental consent in "notarized writing" are required if a child is under 17 years of age.

Furthermore, there are two exceptions to parental notification:

- If you do not want to tell the doctor to tell the parent, a judge must issue an order that removes the requirement that the minor inform the parent(need only one parent) about the planned abortion
- If the doctor determines the minor is having medical emergency and an abortion must be performed immediately there will be no requirement to tell a parent.

This is why termination of pregnancies are done in New Mexico due to the fact that currently(by law) there is no parental consent requirement.

Hopes this helps

(b)(6)
FFS West Texas Region
[REDACTED]
(b)(6) acf.hhs.gov

-----Original Message-----

From: [REDACTED] (b)(6) (ACF)
Sent: Thursday, April 17, 2014 3:40 PM
To: [REDACTED] (b)(6) (ACF); [REDACTED] (b)(6) (ACF); [REDACTED] (b)(6) (ACF) (CTR)

From: (b)(6) (ACF)
Sent: Wednesday, June 25, 2014 11:28 AM
To: (b)(6) (ACF)
Cc: De LA Cruz, James (ACF); (b)(6) (ACF)
Subject: RE: transfer- (b)(6)

Importance: High

Hello (b)(6),

BCFS does not have space for minor. I reached out to (b)(6) our CC, today and ask him to review the packet. We want to make sure that the Judicial By Pass Order is done and the Letter for our director's approval. If not done, (b)(6) please make sure it is done in order to avoid further delays. (b)(6) will reach out to Casa Blanca to see if we have space for minor.

When (b)(6) denied the transfer she was thinking of the best interest of the child. Our experience with the two termination of pregnancy we had the minors appreciated to have the Clinician working with them during the termination of the pregnancy. (One in El Paso and the other in San Antonio) The minor wanted the clinicians that worked with them, that knew their stories, there with them.

(b)(6)

Federal Field Specialist/West-Texas Region
Division of Children's Services
Office of Refugee Resettlement
Administration for Children and Families
U.S. Department of Health and Human Services

(b)(6)

www.acf.hhs.gov/programs/orr/

From: (b)(6) (ACF)
Sent: Tuesday, June 24, 2014 8:53 PM
To: (b)(6) (ACF)
Cc: De LA Cruz, James (ACF); (b)(6) (ACF)
Subject: RE: transfer- (b)(6)

Hi Again, (b)(6)

After staffing this case again this evening, please be informed that UAC transfer to a Program like SWK Casa Blanca in San Antonio is a directive from Jim De La Cruz and (b)(6). Your support and assistance with facilitating this transfer is appreciated.

Just as fyi, effective this week, due to a shift on the type of UAC IES Shelter will be working with, many UAC currently placed there will need to be transferred out to other Programs if they do not qualify for transfer to a DoD site. This UAC is one of the UAC that will need to transfer out to another Program before Monday of next week.

If you have any questions, please feel free to call me.

Thank you, (b)(6)

(b)(6)

Federal Field Specialist
Office of Refugee Resettlement
Division of Children Services

(b)(6)

From: (b)(6) (ACF)
Sent: Tuesday, June 24, 2014 2:50 PM
To: (b)(6) (ACF)
Cc: De LA Cruz, James (ACF); (b)(6) (ACF)
Subject: RE: transfer- (b)(6)
Importance: High

Hi (b)(6)

I presented your suggestion of traveling back and forth with UAC for this procedure to Mr. De La Cruz last night. He does not feel we should put the child through such long travel after having this procedure. Per Mr. De La Cruz, I need to transfer UAC to a Program in San Antonio, TX.

I realize that your Programs have to do much of the legwork with these type of cases, but this is their job. This should hinder us from doing what is best for the UAC. The type of resistance I am getting from your Program is amazing and meantime the pregnancy is advancing which is not good for the child.

I defer your suggestion to Mr. De La Cruz and will follow his directive.

Jim, Please provide guidance to us on this.

(b)(6)

From: (b)(6) (ACF)
Sent: Tuesday, June 24, 2014 2:41 PM
To: (b)(6) ACF
Cc: De LA Cruz, James (ACF); (b)(6) (ACF)
Subject: RE: transfer- (b)(6)

(b)(6) can your program make the arraignment and drive to San Antonio on the day of the termination of the pregnancy. I know it may be a drive but as per our conversation, we had driven minors from El Paso to Albuquerque NM which is bigger distance from your program to San Antonio order to get this procedure done.

Please have your program discuss with the PO on how they can get the budget needed. My program had to stayed overnight with the minor.

(b)(6)

Federal Field Specialist/West-Texas Region
Division of Children's Services

> (b)(6) @gdit.com<mailto: (b)(6) @gdit.com>
>
> From: (b)(6)
> Sent: Monday, June 23, 2014 3:39 PM
> To: (b)(6)
> Cc: (b)(6) (b)(6) (ACF)"
> (b)(6) @acf.hhs.gov<mailto: (b)(6) @acf.hhs.gov>;
> (b)(6) (b)(6) EXT
> Subject: RE: transfer- (b)(6)
>
> Hi (b)(6)
> Could you check to see if either one of these programs would be able to assist us with (b)(6)
> Either SW Key Casa Blanca and BCFS San Antonio Campus. Thank you (b)(6) ahead of time for all of your help.
> If you have any questions please feel free to contact me.
>
> Thank you,
>
> (b)(6)
> GDIR Case Coordinator
> General Dynamics Information Technology ORR Case Coordination Program
> South Texas Region
> (b)(6)
> (b)(6) @gdit.com<mailto: (b)(6) @gdit.com>
> www.gdit.com<http://www.gdit.com>
>
> [GDIR pic]
>
>
>
> From: (b)(6)
> Sent: Monday, June 23, 2014 1:35 PM
> To: (b)(6) (b)(6) EXT
> Cc: (b)(6) (b)(6) (ACF)"
> (b)(6) @acf.hhs.gov<mailto: (b)(6) @acf.hhs.gov>;
> (b)(6)
> Subject: RE: transfer- (b)(6)
>
> (b)(6)
>
> I spoke with Seton. They will not be able to accept this minor because she wants to terminate her pregnancy and they are full at this time.
>
> (b)(6)
> Analyst, Functional
> General Dynamics Information Technology San Antonio Region
> (b)(6)
> (b)(6) @gdit.com<mailto: (b)(6) @gdit.com>
> [Description: gd_it_logo-1]
>
>
> From: (b)(6)
> Sent: Monday, June 23, 2014 1:28 PM

From: (b)(6)
Sent: Monday, June 23, 2014 1:28 PM
To: (b)(6) (EXT)
Cc: (b)(6); (b)(6) (ACF)" (b)(6) (b)(6); (b)(6)
Subject: RE: transfer-

Hi (b)(6)
Thank you for forwarding the information to (b)(6) and for the update.

Sincerely,

(b)(6)

General Dynamics Information Technology
ORR Case Coordination Program
South Texas Region

(b)(6)

www.gdit.com

GENERAL DYNAMICS
Information Technology

From: (b)(6)
Sent: Monday, June 23, 2014 1:25 PM
To: (b)(6)
Cc: (b)(6) (b)(6) (ACF)" (b)(6) (b)(6) (b)(6)
Subject: RE: transfer- (b)(6)

Hi (b)(6)

(b)(6) is covering Seton Home at this time. I went ahead and CC'd her. I read in your referral that minor is wanting to terminate pregnancy, I do know that Seton Home is for pregnant and parenting mothers who want to keep their babies. I hope this helps.

Thank you!

(b)(6)

(b)(6)

General Dynamics Information Technology
ORR Case Coordination Program
San Antonio, TX Region

(b)(6)

www.gdit.com

From: (b)(6)
Sent: Monday, June 23, 2014 1:06 PM

From: [REDACTED] (ACF)
Sent: Thursday, June 12, 2014 7:56 PM
To: De LA Cruz, James (ACF)
Cc: [REDACTED] (ACF); [REDACTED] (ACF)
Subject: FW: Urgent request for medical services: (b)(6)
Attachments: ORR letter.pdf; (b)(6) ORR Director Approval Letter.doc

Hi Jim,

I have a situation involving a UAC who wishes to explore having an abortion. The UAC is (b)(6) and she is 17 years old currently placed at (b)(6) Los Fresnos, TX.

(b)(6) was abandoned by her mother when she was 18 months old. The mother left leaving (b)(6) in the care of the maternal grandparents. (b)(6) grew up with her aunts/uncles as part of the sibling group and she viewed her maternal grandparents as her parents. In time, (b)(6) biological mother returned to visit her own parents and extended family. During these visits, the biological mother emotionally abused (b)(6). She told (b)(6) she wished she had never been born, that she should have aborted her, that she regretted the day she had her and that (b)(6) birth ruined her life forever. She expressed only hatred towards (b)(6) every time she visited.

(b)(6) explained that her family believed her biological mother "changed" through the years as she appeared to be emotionally unstable. (b)(6) biological mother visited sporadically and retreated back to where ever she lived to live her life away from the family. Each time she visited, she "scarred" (b)(6) emotionally with the ugly things she told her. (b)(6) finally disclosed to Shelter Staff that her mother had been raped and became pregnant with her (b)(6) as a result of the rape. (b)(6) said this is why her biological mother felt this way about her.

(b)(6) also experienced two incidents of sexual assault. The first incident occurred when (b)(6) was 7 years old. (b)(6) went to visit a little friend who was not home and her friend's 23 year old brother sexually assaulted her. (b)(6) did not disclose this incident to her family until much later. She grew up hearing people talk about how girls who lose their virginity are no good. She recalled the sexual assault and felt very bad about herself.

At the age of 14, (b)(6) was assaulted again by a friend's husband. This man attempted to undress her, but (b)(6) fought him off and was able to escape sustaining only a slap to her face. This time (b)(6) told her family and her friend what happened during this and the past sexual assault. Despite disclosing these incidents, (b)(6) still felt very bad. In March 2013, (b)(6) attempted to take her life twice, once by cutting her left wrist with a razor blade and the second by taking some unknown medication. Both attempts to end her life were unsuccessful.

At the age of 17, sometime around March 29, 2014, (b)(6) said she had consensual sex with a 28 year old man. She later explained that she actually had sex with this man for money which she used travel to the U.S. (NOTE: A Trafficking Addendum has been submitted to ATIP and a response is pending.) Before leaving home country, (b)(6) arranged to receive a "contraceptive injection" on 4/8/2014.

(b)(6) said she did not tell her grandparents she was coming to the U.S. When her family noticed her missing, she called (b)(6) on her cell phone, but (b)(6) was not answering her phone to avoid telling them where she was going. She finally answered a call from her brother's/uncle's (proposed sponsor). (b)(6) told him she was traveling to the U.S. Her brother/uncle got very upset and told her to go back home. (b)(6) continued on her journey anyway. Then her grandmother called and asked (b)(6) to return home. (b)(6) hung up on her and continued her journey to the U.S. Her brother/uncle later contacted her again and agreed to help her. He is currently (b)(6) proposed sponsor; however, he has been very slow on submitting the required ORR documentation to the Program.

(b)(6) arrived at IES Shelter on (b)(6). She was administered a urine pregnancy test which showed "positive" results. (b)(6) was very surprised. She was confused and did not know what to think. She first spoke about how it would be for her if she had this baby. She seemed a little happy. On 6/2/2014, she told her Clinician that she wanted to explore terminating her pregnancy. (b)(6) is now about at the 11th-12th week gestational stage of her pregnancy. (NOTE: Please see attached letter from (b)(6) which explains (b)(6) has voiced wanting to terminate her pregnancy to her attorney as well.)

(b)(6) has expressed that she does not want to be transferred to a new shelter where she will have to "re-tell" her story to another Clinician, another Case Manager and a new attorney. Her attorney feels (b)(6) qualifies for SIJV and that she can get her into Family Court pretty quickly while being placed at IES Shelter.

This FFS would like to transfer (b)(6) to San Antonio so that she may explore the option of terminating her pregnancy. The attorney reports that she has identified funds to finance the abortions so that federal funds are not utilized for this. Since the child does not have parents she can contact, the attorney will be obtaining a "judicial bypass" letter which will allow the UAC to have this procedure without parental consent which is required in Texas. The attorney will be accompanying (b)(6) and the Clinician/Medical Coordinator during the clinic exams and after the procedure is completed. The attorney feels that given the circumstances that led to her becoming pregnant, the Judge will grant the "judicial bypass". Once this procedure is completed in San Antonio, this FFS would like to transfer (b)(6) back to IES Shelter where she can pursue reunification with the maternal uncle while continuing to work with her attorney on obtaining SIJV and/or pursue placement in URM if her sponsor does not come through. Again, (b)(6) does not want to be put in a position where she will have to retell her story to new staff and new legal representatives. She wishes to remain in care at IES Shelter.

Attached is a draft letter for the ORR Director to review and consider. The yellow highlighted sections is information I entered specific to this case. The section highlighted in blue I need your guidance with since this incident may not meet the criteria of "rape".

Please advise.

Thank you.

[REDACTED]
Federal Field Specialist
Office of Refugee Resettlement
Division of Children Services

[REDACTED]@acf.hhs.gov

From: [REDACTED] (b)(6) (ACF)
To: [REDACTED] (b)(6)
Subject: RE: Case of minor at Southern Winds
Date: Monday, September 29, 2014 8:42:58 AM

Thank you, ma'am.

(b)(6) MSW
Federal Field Specialist--Florida
U.S. Dept of Health and Human Services
ACF/ORR/DCS
[REDACTED]

From: [REDACTED] (b)(6) @chsfl.org]
Sent: Monday, September 29, 2014 8:36 AM
To: [REDACTED] (b)(6)
Subject: RE: Case of minor at Southern Winds

We will take her

Sent from my Windows Phone

From: [REDACTED] (b)(6) @acf.hhs.gov>
Sent: 9/29/2014 8:35 AM
To: [REDACTED] (b)(6) @chsfl.org>
Subject: RE: Case of minor at Southern Winds

No, but I am told she is finished with her treatment and stable at this time. The only reason she's not going back to the original shelter she was assigned to is because of the termination issue. If she proves to be inappropriate for shelter care, we can re-hospitalize and transfer to a different level of care.

(b)(6) MSW
Federal Field Specialist--Florida
U.S. Dept of Health and Human Services
ACF/ORR/DCS
[REDACTED]

From: [REDACTED] (b)(6) @chsfl.org]
Sent: Saturday, September 27, 2014 12:08 PM
To: [REDACTED] (b)(6) (ACF)
Subject: FW: Case of minor at Southern Winds

Is this young lady available for a face to face?

Sent from my Windows Phone

From: [REDACTED] (b)(6) @chsfl.org>
Sent: 9/26/2014 12:49 PM
To: [REDACTED] (b)(6) @chsfl.org>
Subject: FW: Case of minor at Southern Winds

This is the case I told you about. Let me know what you think. Thanks, [REDACTED]
Thank You,

[REDACTED] (b)(6)
Director of Programs Operations -UAC Program
Children's Home Society, Brevard Division
[REDACTED] (b)(6)

To: De LA Cruz, James (ACF); [REDACTED] (ACF)

Cc: [REDACTED] (ACF) (CTR)

Subject: RE: Case update

Please see attachment from a recent FFS submission. I've --- the identifying information.

Thank you,

[REDACTED]
Medical Services Coordinator (CTR)
Office of Refugee Resettlement/
Division of Children's Services
Department of Health & Human Services

[REDACTED] acf.hhs.gov

From: De LA Cruz, James (ACF)
Sent: Thursday, September 25, 2014 8:49 AM
To: [REDACTED] (b)(6) (ACF)
Cc: [REDACTED] (ACF) (CTR); [REDACTED] (ACF) (CTR)
Subject: Re: Case update

Hi [REDACTED]

Have the program write up a memo. ([REDACTED] or [REDACTED] have you seen a recent case we can share with [REDACTED] as an example?) Have the program include a statement from the facility psychiatrist or psychologist that she is stable enough to make such a decision.

Submit the memo to all of us and the PO. We don't have a formal policy about who receives it and then elevates the memo to Jallyn and [REDACTED]

Jsd

From: [REDACTED] (b)(6) (ACF)
Sent: Wednesday, September 24, 2014 09:50 PM
To: De LA Cruz, James (ACF)
Subject: Fw: Case update

Hello jim,

Please advise on how to proceed with this case. I am leaving on vacation tomorrow and would like to leave things settled. The minor is currently at Southern Winds and the mother has given consent for the termination. The minor was at Catholic Charities Boystown prior to her crisis and hospitalization at Southern Winds. Catholic Charities is requesting that we transfer this minor to another facility. His House will not accept the minor either due to her getting a termination so I am trying for her to remain. At Southern Winds if a termination is approved for this minor. Please let me know what you recommend at this time.

Thank you

From: [REDACTED] (b)(6) [mailto:[REDACTED]@ccadm.org]
Sent: Wednesday, September 24, 2014 01:39 PM
To: [REDACTED] (b)(6) (ACF)

Cc [REDACTED] (b)(6) @ccadm.org>; [REDACTED] (b)(6) @ccadm.org>

Subject: Case update

Good afternoon [REDACTED] (b)(6)

[REDACTED] (b)(6) and myself visited the minor currently at Southern Winds yesterday afternoon to clarify date of incident and her departure date from home country. The minor could not recall exact date but stated that she left on a Sunday and kept track by counting Sundays. She said she left 8 Sundays ago and that would make her departure date July 27th. She added that she was raped on a Friday that first week of her journey which may have been August 1st. According to these dates then the pregnancy could have been a product of the rape.

Minor called her mother and disclosed the rape and pregnancy during our visit. She was adamant about terminating the pregnancy and asked her mother to consent. Minor's mother verbally consented to the termination of minor's pregnancy. She will be providing a written consent as well. Please advise on how to proceed and whether you need further information.

Thank you,

[REDACTED] (b)(6)

Lead Case Manager
Catholic Charities of the Archdiocese of Miami, Inc/Boystown

Mobile [REDACTED] (b)(6)
[REDACTED] (b)(6) [REDACTED] (b)(6) @ccadm.org

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ESQ.

[REDACTED] -Division of Policy

U.S. Department of Health and Human Services Administration for Children and Families Office of Refugee Resettlement
Office of the Director – Division of Policy

[REDACTED] (O)
[REDACTED] (b)(6) [REDACTED] (C)
[REDACTED] (F)

-----Original Message-----

From: [REDACTED] (b)(6) (ACF)

Sent: Tuesday, February 17, 2015 3:55 PM

To: [REDACTED] (ACF)

Subject: Fw: Transfer Request [REDACTED] (b)(6)

Ur synopsis

[REDACTED] (b)(6)

Federal Field Specialist
Health and Human Services
ACF/ORR/DCS
Phone: [REDACTED]

----- Original Message -----

From: [REDACTED] (b)(6) (ACF)

Sent: Tuesday, February 17, 2015 03:54 PM

To: [REDACTED] (b)(6) (ACF); [REDACTED] (b)(6) @GDT.com' [REDACTED] (b)(6) @GDT.com>

Cc: [REDACTED] (b)(6) (ACF)

Subject: RE: Transfer Request [REDACTED] (b)(6)

Hi [REDACTED] (b)(6)

Here's a synopsis of the case. I have also included information about the sponsor.

Minor is a 16 year old from [REDACTED] (b)(6). Minor reported leaving [REDACTED] (b)(6) on January 11, 2015 along with her niece (previous UAC-[REDACTED] (b)(6)). [REDACTED] (b)(6) reported that she and her niece (UAC [REDACTED] (b)(6)) were apprehended by Border Patrol and later admitted at YFT on [REDACTED]

During the Initial physical, UAC [REDACTED] (b)(6) tested positive for pregnancy on Urine test. On 01/26/15, UAC stated that her pregnancy is from a consensual relationship and her boyfriend is 17 year old male that is currently in [REDACTED]. On 1/28/15, UAC was taken to the OBGYN doctor visit and a blood test was done. According to YFT residential staff, while the doctor was talking to UAC, UAC reported to the doctor that she doesn't want to give birth to her baby. She stated that she'll be dishonoring her family, due to the fact of her baby's father is her cousin (her uncle's son from her mother side). She also reported that her cousin is currently in [REDACTED] (b)(6)

[REDACTED] is about nine to ten weeks pregnant. She has verbalized on multiple occasions that she wishes to terminate her pregnancy. She has expressed that she does not want to disclose information on pregnancy or her decision to terminate her pregnancy to her family. She also continues to actively participate in activities at YFT, including individual and group

Just a reminder that ORR programs can only pay for the termination of a pregnancy if it is a result of rape. Per information I have received on this case, the pregnancy was a reality of a consensual relationship with the minor's boyfriend/cousin. I have CC'd the FFS for AH on this email in the event I have missed something.

Thanks,

(b)(6) LMSW
Supervisory Case Coordinator
ORR Case Coordination Program
General Dynamics Information Technology
Mid-Atlantic/Eastern Region
(b)(6) cell
(b)(6) @gdit.com
www.gdit.com
[cid:image002.png@01D04AA1.A2E23C30]

From: (b)(6) (NE)
Sent: Tuesday, February 17, 2015 11:02 AM
To: (b)(6)
Cc: (b)(6)
Subject: Transfer Request (b)(6)

Hi (b)(6)

This is a transfer request for the UAC mentioned above. UAC currently resides at YFT and she is 8 weeks pregnant. UAC has decided that she wants to terminate her pregnancy, YFT has requested a transfer to a facility in which termination of pregnancy is permitted. CM has reported that UACS' boyfriend resides in HC, (b)(6) Attached you will find the first email with transfer documentation for this UAC. Please let me know if Abbot House will be able to accept this UAC.

Thank You,

(b)(6)
Case Coordinator
Orr Case Coordination Program
Under contract to general dynamics information technology for Virginia
Phone (b)(6)
(b)(6)
www.gdit.com<http://www.gdit.com>

From: (b)(6) @yftva.com]
Sent: Friday, February 13, 2015 2:27 PM
To: (b)(6) (NE)
Subject: Transfer documents for UAC (b)(6) Part 2

(b)(6)
Case Manager
Youth For Tomorrow
(b)(6)
Bristow, VA (b)(6)

counseling sessions. Minor received family planning and counseling on 2/9/2015 and she has decided to proceed with the termination of her pregnancy.

SPONSOR

Sponsor lives in [REDACTED]

Out of scope of the request

[REDACTED]
Out of scope of the request

[REDACTED]
Out of scope of the request

[REDACTED]
Out of scope of the request

[REDACTED]
Out of scope of the request

[REDACTED] (b)(6) MSW
Federal Field Specialist
Division of Children's Services
Office of Refugee Resettlement
U.S. Department of Health and Human Services
(O) [REDACTED]
(C) [REDACTED] (b)(6)
(F) [REDACTED]
[REDACTED] (b)(6) @acf.hhs.gov

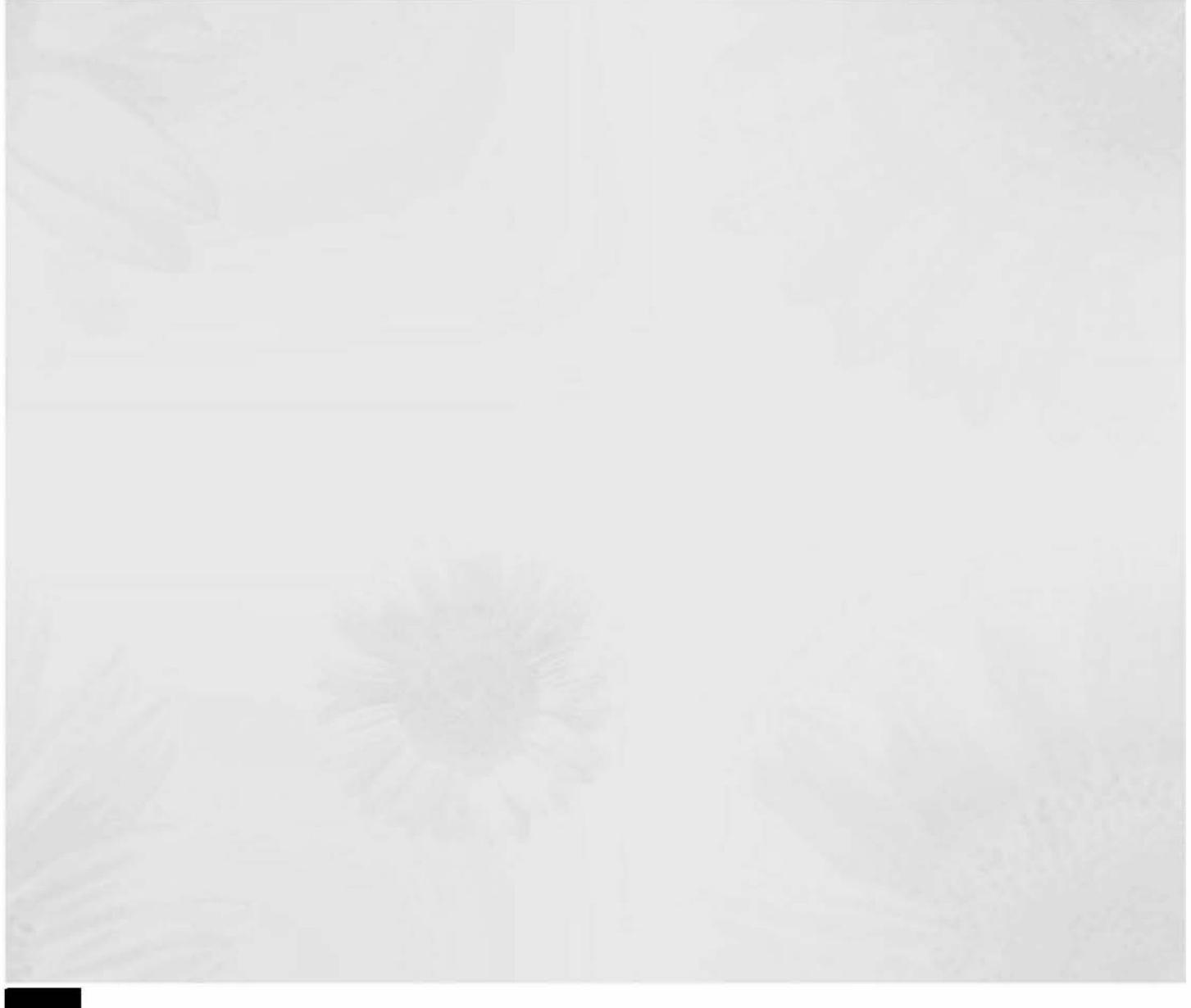
-----Original Message-----

From: [REDACTED] (ACF)
Sent: Tuesday, February 17, 2015 11:54 AM
To: [REDACTED] (b)(6); [REDACTED] (b)(6) (ACF)
Cc: [REDACTED] (b)(6) (ACF)
Subject: Re: Transfer Request [REDACTED] (b)(6)

That is correct. It is my understanding this pregnancy was from encounter that was consensual. ORR will not pay for a termination if the pregnancy was the result of consensual sex. However, ORR may consider this a rape if the cousin was an adult, or allow for termination due to incest. [REDACTED] (b)(6) can you send me a synopsis of the case. Please include the cousin info (age, location of cousin).

YFT and the minor will need to let her know she is pregnant and what her plan is once she is discharged. If there are concerns with the sponsors reaction and if she would support the minor we could do a HS and transfer her to NY. If not it might be prudent to do the release from YFT w PRS in place. Please keep me posted

EXHIBIT G



A UC is being transferred to KP because KP will support a youth's decision to terminate. The question from KP is will ORR fund the termination. The UC is 17 and 6-7 weeks.

[REDACTED]
Federal Field Specialist
U.S. Dept. of Health and Human Services
Administration for Children and Families
Office of Refugee Resettlement
Division of Children's Services
Phone: [REDACTED]

From: [REDACTED] (ACF)
Sent: Friday, December 11, 2015 10:11 AM
To: [REDACTED] (ACF); [REDACTED] (ACE); [REDACTED] (ACF)
Subject: Re: Transfer Request for UC: [REDACTED]

None in florida anymore

From: [REDACTED] (ACF)
Sent: Friday, December 11, 2015 9:18:43 AM
To: [REDACTED] (ACF); [REDACTED] (ACF); [REDACTED] (ACF)
Subject: RE: Transfer Request for UC: [REDACTED]

Cayuga NY
CV NY
Heartland Chicago
LSSNY
KidsPeace

[REDACTED]
Federal Field Specialist Supervisor
United States Department of Health and Human Services
Administration of Children and Families
Office of Refugee Resettlement
Division of Children's Services
<http://www.acf.hhs.gov/programs/orr>

[REDACTED]
[REDACTED]
[REDACTED]@acf.hhs.gov

From: [REDACTED] (ACF)
Sent: Thursday, December 10, 2015 9:10 PM
To: [REDACTED] (ACF); [REDACTED] (ACF); [REDACTED] (ACF)
Subject: FW: Transfer Request for UC: [REDACTED]

Please see the series of correspondences directly below this message.

Can you please advise of potential transfer sites where the minor can receive the services that she is requesting?

[REDACTED] I am including you because while covering for [REDACTED] [REDACTED] had a similar case which was aptly handled by Lemon Grove, so I wanted you to have awareness that we may be referring a transfer request to that Program.

[REDACTED]
Federal Field Specialist Supervisor, [REDACTED]
HHS ACF ORR DCS

[REDACTED]@acf.hhs.gov

From: [REDACTED] (ACF)
Sent: Thursday, December 10, 2015 4:12 PM
To: [REDACTED] (ACF)
Subject: FW: Transfer Request for UC: [REDACTED], [REDACTED]

Good morning [REDACTED]

Please see the cases facts below for the case of [REDACTED] who is currently placed at IES Los Fresnos Shelter.

The minor is approximately 6 weeks pregnant and is requesting termination of pregnancy. Please advise as to which facility is recommended for a transfer request in our network of national placements to assist in meeting/exploring the minor's request.

Also, this is my first of its kind case, so if there are other steps in need to take that I have not, please provide any guidance and I will follow through.

Thank you.

[REDACTED]
[REDACTED]
Federal Field Specialist
U.S. Department of Health and Human Services
Administration for Children and Families
Office of Refugee Resettlement/Division of Children's Services
[REDACTED]@acf.hhs.gov
[REDACTED]

From: [REDACTED] [mailto:[REDACTED]@GDT.com]
Sent: Thursday, December 10, 2015 10:01 AM
To: [REDACTED] (ACF)
Cc: [REDACTED]
Subject: FW: Transfer Request for UC: [REDACTED], [REDACTED]

Hi [REDACTED],

This case was staffed yesterday and I received the Transfer Request thereafter.

- Minor, 17 year-old female, arrived to IES Shelter [REDACTED]; pregnancy was confirmed at time of initial evaluation
- Minor is currently 6 weeks gestation as of 12/8/15; she confirmed a consensual relationship with her adult boyfriend (22)

EXHIBIT H



Administration for Children and Families

Office of Refugee Resettlement

**Trafficking Victim Assistance Program
HHS-2015-ACF-ORR-ZV-0976
Application Due Date: 08/19/2015**



EXT-18-1509-B-000876

Trafficking Victim Assistance Program

HHS-2015-ACF-ORR-ZV-0976

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**Department of Health & Human Services
Administration for Children and Families**

Program Office: Office of Refugee Resettlement
Funding Opportunity Title: Trafficking Victim Assistance Program
Announcement Type: Modification
Funding Opportunity Number: HHS-2015-ACF-ORR-ZV-0976
Primary CFDA Number: 93.598
Due Date For Letter of Intent: 07/20/2015
Due Date for Applications: 08/19/2015

Executive Summary

Notices:

- Applicants are strongly encouraged to read the entire funding opportunity announcement (FOA) carefully and observe the application formatting requirements listed in *Section IV.2. Content and Form of Application Submission*. For more information on applying for grants, please visit "How to Apply for a Grant" on the ACF Grants Page at <http://www.acf.hhs.gov/grants/howto>.

This announcement is modified. HHS made changes regarding eligibility for derivatives and a pre-certified victim's requirement to meet with a law enforcement official or an attorney. Please see changes in the Executive Summary and Section I., Purpose and Scope, Program Requirements, Program Evaluation Plan, Additional Information, and Post-Award Requirements.

The Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services (HHS), Administration for Children and Families (ACF) announces that it will accept competing applications for cooperative agreements to administer the Trafficking Victim Assistance Program (TVAP).

The central purpose of these cooperative agreements is to efficiently fund time-limited comprehensive case management services on a per capita basis to foreign victims of a severe form of trafficking in persons and potential victims of trafficking seeking ORR certification in any location within the United States. ORR intends to accomplish this purpose by awarding cooperative agreements to organizations that will individually or collectively ensure national coverage. An awarded organization must provide case management and referrals to qualified persons, either directly through its own organization or by partnering with other organizations through contracts or both.

Persons qualified for services under this grant (qualified persons) means victims of a severe form of trafficking in persons who have received ORR certification; potential victims of a severe form of trafficking who are actively seeking to achieve ORR certification; a family member in receipt of a derivative T visa issued by DHS; and minor dependent children of foreign victims of severe forms of trafficking in persons or potential victims of trafficking.

I. Program Description

Statutory Authority

These grants are authorized by Section 107(b)(1)(B) of the Trafficking Victims Protection Act of 2000, as amended, codified at 22 U.S.C. § 7105(b)(1)(B).

Description

BACKGROUND ON HUMAN TRAFFICKING AND HHS' ROLE UNDER THE TRAFFICKING VICTIMS PROTECTION ACT

Human trafficking is a crime involving the exploitation of someone for the purposes of compelled labor or a commercial sex act through the use of force, fraud, or coercion. Where a person younger than 18 is induced to perform a commercial sex act, it is a crime regardless of whether there is any force, fraud, or coercion. Victims can be anyone from around the world or right next door: women and men, adults and children, citizens and noncitizens.

The Trafficking Victims Protection Act of 2000, as amended (TVPA), designates HHS as the agency responsible for helping foreign victims of a severe form of trafficking in persons, as defined by the TVPA, become eligible to receive federal and state benefits and services to the same extent as a refugee. Such assistance allows these victims to rebuild their lives safely in the United States. The TVPA authorizes HHS to provide services in the United States to foreign victims of a severe form of trafficking in persons, to assist potential victims of a severe form of trafficking in achieving ORR certification, and to assist minor dependent children of victims of severe forms of trafficking in persons or potential victims of trafficking. The Secretary of HHS delegated authority for certification and eligibility determinations to the Assistant Secretary for Children and Families who in turn delegated them to the Director of the Office of Refugee Resettlement (ORR).

The TVPA also authorizes HHS to conduct public awareness, which it does through a national public awareness campaign, including the operation of a national hotline, outreach, education, and the provision of technical assistance and training to build local and regional capacity to address human trafficking.

PURPOSE AND SCOPE

The central purpose of the TVAP cooperative agreements is to efficiently fund time-limited comprehensive case management services on a per capita basis in any location within the United States to foreign victims of a severe form of trafficking in persons and to assist potential victims of trafficking in achieving ORR certification.

ORR intends to accomplish this purpose by awarding cooperative agreements to organizations that will individually or collectively ensure national coverage. An awarded organization must provide case management and referrals to qualified persons, either directly through its own organization or by partnering with other organizations through contracts or both.

The primary goal of the comprehensive case management services funded under this funding opportunity is to provide time-limited, comprehensive case management services to victims of a severe form of trafficking in the United States during their immediate efforts to obtain ORR certification. The purpose of post-certification and family member case management is to assist participants to enroll promptly in federal and state benefits and services to the same extent as refugees, to obtain employment, and to become self-sufficient.

DEFINITIONS AND TERMS

For the purposes of the announcement, these terms have the following meanings:

- *Comprehensive case management* must include providing direct services and/or community referrals for housing, mental health screening and therapy, employability services, legal services, counselling, health screening and medical care, including treatment for sexually transmitted infections, family planning services and the full range of legally permissible gynecological and obstetric care, including but not limited to exams, tests, pre-natal services and non-directive

health-related counselling.

- *Foreign national victim or foreign victim* refers to a person who is not a U.S. citizen, a Lawful Permanent Resident (LPR), or a refugee.
- *ORR certification* refers to a Certification Letter or Eligibility Letter issued by ORR to a victim of a severe form of trafficking.
- *Outreach* is communication for the purpose of recruiting new subcontractors or informing professionals about the Trafficking Victim Assistance Program (TVAP), services available to foreign victims of trafficking, and ORR certification (may include phone calls, e-mails, presentations, etc.).
- *Per capita basis or per capita services* refers to funding for administrative and participant expenses on a per-person or per-family basis.
- *Pre-certified victim or participant* refers to a victim of a severe form of trafficking who has not yet received ORR certification.
- *Post-certification* refers to the time on or after the eligibility date on the ORR certification.
- *Training* is an organized activity to impart information or instructions to improve a recipient's knowledge or skills.

Victim of a severe form of trafficking is defined in Section 103(14) of the TVPA.

HHS certification of adult victims of a severe form of trafficking is described in Section 107(b)(1)(E) of the TVPA.

HHS determinations regarding the eligibility of foreign minors for interim and long-term assistance are described in Section 107(b)(1) of the TVPA.

PROGRAM OBJECTIVES

The Trafficking Victim Assistance Program has the following objectives:

- 1) **Comprehensive Case Management Services:** To provide time-limited comprehensive case management services, through direct services and/or community referrals to qualified persons to help them achieve ORR certification and timely access to benefits and services to the same extent as refugees so they can rebuild their lives and re-establish their ability to live independently.
- 2) **Per Capita Services:** To ensure the efficiency of the trafficking program's resource allocation by making administrative and participant funding available on a per capita basis only for qualified persons.
- 3) **Nationwide or Regional Service Capacity:** To build and maintain nationwide capacity for comprehensive case management service provision or for a designated geographical region.
- 4) **Technical Assistance, Training, and Monitoring:** To build the capacity of subcontractors by providing technical assistance and training to subcontractors and to monitor their performance.

PROGRAM REQUIREMENTS

TVAP Participant Eligibility

Persons qualified for services under this program (qualified persons or participants) are the following:

- A foreign national adult potential victim of a severe form of trafficking who is seeking a Certification Letter from ORR and who is actively pursuing T nonimmigrant status and/or Continued Presence (CP) issued by the Department of Homeland Security (DHS);
- A foreign national potential victim of a severe form of trafficking who is under 18 years of age (minor) and is seeking an Eligibility Letter from ORR;
- A foreign national victim of a severe form of trafficking who has received ORR certification;
- A foreign national under 18 years of age who has been subjected to a severe form of trafficking;
- A family member in receipt of a derivative T visa issued by DHS;
- A dependent minor child of a potential victim of trafficking seeking ORR certification; or

- A dependent minor child of a victim of a severe form of trafficking who has received ORR certification.

Lawful Permanent Residents (LPRs), U.S. citizens, and refugees are not eligible for services under this program.

When determining the eligibility of an individual for services under this program, the grantee must take into account the following:

- The victim's progress in achieving ORR certification (pre-certified participants) or the victim's receipt of an ORR Certification or Eligibility Letter;
- Whether and to what extent funds for services or case management are available from any other federal or state-funded program, including services or case management provided by other ORR programs, such as the Matching Grant Program; the Office for Victims of Crime (OVC) in the U.S. Department of Justice (DOJ); the Bureau of Population, Refugees, and Migration in the U.S. Department of State; or other federal or state agencies or programs funding benefits and services for which foreign trafficking victims or potential victims are eligible; and
- Any services accessed under any program, grant, or contract previously funded by the ORR/Division of Anti-Trafficking in Persons.

Trafficking Victim Assistance Program grant recipients (TVAP grantees) must screen all pre-certified participants (including those referred by an attorney or a law enforcement official) to determine whether the person is a victim of a severe form of trafficking as defined by Section 103(14) of the TVPA, and assess the type of trafficking and indicators of human trafficking related to force, fraud, or coercion.

Comprehensive Case Management Services

TVAP grantees must ensure that qualified persons receive a high level of care by implementing, following, and enforcing standards of care and protocols for comprehensive case management services. TVAP grantees must assess each participant's basic needs to determine appropriate comprehensive case management services.

TVAP grantees must ensure that participants served under this program are not concurrently served with other federally funded grants, contracts, or sub-awards made to the grantee or sub-recipient agency specifically for services for victims of human trafficking. TVAP grantees or subcontractors that receive DOJ Office for Victims of Crime (OVC) trafficking services funds to serve pre-certified victims must use funds awarded by OVC until the victim achieves ORR certification. After ORR certification, the victim can be transferred to the TVAP-funded project. TVAP funds must not be used when other federal or state-funded resources are available, such as case management and assistance provided through the ORR Matching Grant Program and benefits and assistance available through the U.S. Department of State's Reception and Placement Program. Before using TVAP funds, TVAP grantees must maximize other available federal and state funds for services to qualified persons under this grant.

TVAP grantees must seek to minimize the length of time required to provide services to qualified persons under this grant. TVAP is not a long-term support program. Pre-certified participants and their dependent minor children served under this grant program are limited to a total of 12 months of services, which do not need to be received in consecutive periods, including trafficking victim services currently or previously funded by ORR.

Pre-certified adult participants who have not yet started the process for receiving T nonimmigrant status or CP must meet with a law enforcement official and/or an attorney within 6 weeks of enrollment in TVAP unless unable to do so due to physical or psychological trauma or because of logistical constraints. TVAP grantees must establish evaluative benchmarks regarding a pre-certified participant's progress in achieving ORR certification (such as in the case of adults meeting with a federal law enforcement official, requesting a federal law enforcement application for CP, or applying to U.S. Citizenship and Immigration Services (USCIS) for T nonimmigrant status) and use progress on these benchmarks to evaluate

subsequent requests for approval for continued enrollment beyond initial enrollment.

TVAP grantees must limit initial enrollment of each participant to no more than 3 months. Subsequent requests for enrollment must be in increments of 1, 2, or 3 months. Enrollment for ORR-certified victims and their dependent minor children must not exceed a total of 3 months.

TVAP grantees must not use the case management services funded by this grant to delay ORR certification and replace enrollment in programs that ORR certified victims of trafficking are eligible to receive. TVAP grantees must request ORR certification as soon as a participant is eligible and, in the case of an adult, has a government-issued identification document.

TVAP grantees must inform participants of their eligibility for benefits and services to the same extent as refugees immediately upon each participant's certification by ORR. These may include the ORR Matching Grant Program (subject to availability), Medicaid, and the State Department's Reception and Placement Program, which is administered by nine voluntary agencies.

TVAP grantees and subcontractors must make efforts to coordinate with the State Refugee Coordinator and State Refugee Health Coordinator (where applicable) to assist certified victims in accessing benefits and services to the same extent as refugees.

A grantee may not take any steps to discourage program participants from making a request for a service available under the program, nor may a grantee direct subcontractors to refrain from providing services when the subcontractor has no religious objection to providing such services.

Faith Based Organizations

Consistent with the ACF Policy on Grants to Faith-Based Organizations (please see *Section III.1 Eligible Applicants* for more information), ACF is mindful that potential grantees may have religious objections to providing certain kinds of services, including referrals. ACF is committed to providing the full range of legally permissible services to people who need them, and to do so in a timely fashion and in a manner that respects the diverse religious and cultural backgrounds of those we serve. At the same time, ACF is also committed to finding ways for organizations to partner with ACF and other grantees even if they object to providing specific services on religious grounds.

If an organization has a religious objection to providing any of the services or referrals required in the program, it may propose an approach to meeting its grant obligations consistent with ACF's faith-based policy. The alternative approach must be one that accomplishes the goal of ensuring that trafficking victims understand the full range of services available to them, including reproductive health services, and that there is a mechanism by which victims requesting such services can receive appropriate referrals. If an alternative approach is proposed, ORR will decide whether to accept the alternative approach, based upon a determination of whether the alternative approach will ensure timely referrals to all services and/or referrals for which the individual is eligible, is not burdensome to the client, and is operationally feasible for ACF.

Per Capita Services

TVAP grantees must pay themselves and subcontractors for administrative and participant expenses on a per capita basis only.

- Administrative expenses must include the salary, fringe, and operating costs that are directly attributable to the lead trafficking case manager and his supervisor.
- Participant expenses are services and items that provide for basic needs and assist in the stabilization and self-sufficiency of the participant.
- TVAP grantees must reimburse themselves and subcontractors for participant expenses based on actual participant expenses.
- TVAP grantees must indicate separate per capita dollar amounts for administrative and participant expenses.

Allowable participant expenses include housing, food, clothing, employability services, public transportation passes, translation services, and legal services.

Nationwide or Regional Service Capacity

Each TVAP grantee must define the geographic area in which it will provide comprehensive case management services, which must include, at a minimum, all the states and territories in one of the 10 ACF Regions. A TVAP grantee must provide full coverage for comprehensive case management services in each ACF Region it is proposing to cover directly through its own organization or by partnering with other organizations, or both.

TVAP grantees must serve all qualified persons requesting assistance in its proposed/assigned region and ensure the provision of case management services throughout the region. TVAP grantees must minimize barriers to access for victims due to distance from a service provider.

TVAP grantees must provide comprehensive case management services to qualified persons either directly by its own organization or through subcontracts to other organizations or both.

A TVAP grantee may subcontract with service provider organizations outside of the ACF Region(s) in which it provides full coverage. A subcontractor organization must work with only one primary TVAP grantee.

Subcontractors are not required to have previous anti-trafficking experience, but must be able to effectively provide comprehensive case management services. TVAP grantees must obtain the Project Officer's prior approval for any subcontractors and must provide a signed Memorandum of Understanding (MOU) or a signed letter of intent and draft subcontract agreement with a detailed description of the subcontractor's responsibilities regarding comprehensive case management service provision.

TVAP grantees must conduct outreach in the assigned region to recruit subcontractors for the TVAP project. TVAP grantees or subcontractors must also conduct outreach and provide technical assistance upon request to service providers, attorneys, law enforcement officials, and DHS and FBI victim specialists about TVAP, services, and ORR certification.

Technical Assistance, Training, and Monitoring

TVAP grantees must provide technical assistance and training to subcontractors on, or ensure that the subcontractor is already knowledgeable about the following:

- TVAP requirements;
- Human trafficking 101;
- The federal definition of severe forms of trafficking in persons;
- Indicators of human trafficking;
- Needs of trafficking victims;
- Comprehensive case management services;
- Trauma-informed care;
- Services available for victims who have not yet received ORR certification;
- Continued Presence and T nonimmigrant status, including derivative T visas;
- How to obtain an ORR Certification Letter or Eligibility Letter;
- Benefits and services for which victims with ORR certification are eligible;
- Federal and state resources for victims;
- Not using TVAP funds when other federal and state resources, such as OVC pre-certification services, are available; and
- The eligibility of derivative family members for federal and state benefits and services to the same extent as refugees.

TVAP grantees must track subcontractors' participation in its trainings.

TVAP grantees must monitor and evaluate the quality of case management services provided to qualified persons by any subcontractors; such monitoring may consist of a combination of desk-audits and on-site monitoring visits. TVAP grantees must provide technical assistance to address any deficiencies in a subcontractor's performance. TVAP grantees must monitor subcontractors' efforts to help participants achieve ORR certification and become self-sufficient. TVAP grantees must require subcontractors to provide monthly updates on each pre-certified participant's progress toward ORR certification and each certified participant's and derivative's enrollment in federal and state benefits and services.

Program Performance Evaluation Plan

Performance Indicators

TVAP grantees must provide data to ORR on the following indicators on a monthly, quarterly, or annual basis, as directed by the Project Officer:

Comprehensive Case Management Services

- The number of participants served;
- Participant demographics including age, sex, and country of origin;
- The type of assistance provided, such as food, clothing, and housing;
- Types of trafficking experienced by participants (sex, labor, or both);
- The number of participants who received services as pre-certified, certified, or both;
- The average length of participant enrollment as pre-certified, certified, or both;
- The average length of time for a pre-certified victim to obtain Continued Presence or T nonimmigrant status;
- The average length of time before a pre-certified participant meets with a law enforcement official or an attorney;
- The number and percentage of pre-certified participants who achieve ORR certification within 12 months of TVAP enrollment;
- The number of clients who transferred out of a grantee's geographic region; and
- The reasons for disenrolling participants.

Per Capita Services

- The average annual total cost per victim participant as pre-certified, certified, or both;
- The average annual total cost per derivative participant as dependent child and other; and
- The total annual cost per type of service provided to participants (food, clothing, housing, etc.).

Nationwide or Regional Service Capacity

- The number and location of subcontractors with signed MOUs;
- The number of subcontractors' service site locations;
- The number of subcontractors that provided services;
- The numbers of states and cities in which the subcontractors provided services;
- Subcontractors disenrolled and reason for disenrollment;
- The number and type of outreach to potential subcontractors;
- The type of outreach to service providers, attorneys, law enforcement officials, and DHS and FBI victim specialists about TVAP, services, and ORR certification, and the number of persons reached; and
- The number of occasions of technical assistance for service providers, attorneys, law enforcement officials, and DHS and FBI victim specialists about TVAP, services, and ORR certification.

Technical Assistance, Training, and Monitoring

- The number of trainings for subcontractors with signed MOUs;
- The number of participants in trainings for subcontractors;
- The number of states and territories in which the grantee provided training;

- The number of occasions of technical assistance for subcontractors and the type of technical assistance provided to subcontractors; and
- The number of monitoring visits and/or desk audits for subcontractors.

NOTE: Consistent with the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3521, under this FOA, the ORR Project Officer will not conduct or sponsor – and a person is not required to respond to - a collection of information covered by such Act, unless it displays a currently valid OMB control number. ORR will seek approval of its TVAP Participant Demographic Information through the OMB Office of Information and Regulatory Affairs (OIRA). The ORR Project Officer will not request this information if these data points are not approved at the time that reports are due. Please see Section VI.3. Reporting for more information.

ADDITIONAL INFORMATION

Comprehensive Case Management Services

TVAP grantees may use private resources to achieve the objective of this program, such as food pantries, thrift stores, employment and training services operated by nongovernmental organizations, and *pro bono* professional services.

TVAP grantees may use these grant funds for legal assistance that can include the following activities:

- Legal immigration services, including assistance in screening the pre-certified participant to ensure that the person is a victim of a severe form of trafficking;
- Explanation of legal rights and protections;
- Coordination with law enforcement to request CP;
- Assistance in applying for T nonimmigrant status or, in the case of minors, other immigration relief;
- Assistance in applying for adjustment of status;
- Assistance on family and civil matters, including protection from abuse orders, victims' rights enforcement and compliance efforts, representation in family court, and emancipation of minors;
- Legal assistance with repatriation or family reunification; and
- General legal advocacy on matters that arise as a direct result of the human trafficking situation.

Assistance can also include victim advocacy and information about crime victims' rights and services. TVAP grantees may also use program funds to provide 'know your rights' presentations and to facilitate legal representation by private attorneys willing to act on behalf of the individual *pro bono*. TVAP funding may not be used for criminal defense attorney services or to pay for biometric fees or other administrative fees associated with applying for immigration relief. (See ORR State Letter #12-04.)

Per Capita Services

TVAP grantees may base the dollar amount of administrative reimbursement on the level of case management provided. For example, TVAP grantees may reduce the administrative per capita payment if the participant is receiving minimal case management. TVAP grantees may also prorate administrative reimbursement based on the number of days the participant is enrolled.

TVAP grantees may reimburse administrative and participant expenses on per-family unit basis, rather than a per-person basis, when both a victim, derivative, and/or his/her dependent child are enrolled.

Nationwide or Regional Service Capacity

The geographic area can be nationwide.

TVAP grantees may provide remote case management only if they are unable to find a service provider located near the participant, subject to the approval of the Project Officer.

POST-AWARD REQUIREMENTS

The following post-award items are required of each successful applicant:

- 1) Within 10 calendar days of date of award, TVAP grantees must have the capacity to respond to emergency requests for assistance submitted via phone calls and e-mail;
- 2) Within 10 calendar days of date of award, TVAP grantees must have the capacity to ensure the provision of comprehensive case management services for qualified persons throughout the proposed/assigned area;
- 3) Within 10 calendar days of award, TVAP grantees must have a dedicated e-mail address and toll-free number for receiving requests for TVAP assistance.
- 4) Within 1 month of award, each TVAP grantee must ensure reasonable coverage for case management services for qualified persons throughout its geographic area that minimizes barriers to accessing services;
- 5) Within 1 month of award, TVAP grantees must establish policies and procedures for enrolling participants in TVAP and selecting, reimbursing, training, and monitoring subcontractors.
- 6) Within 1 month of award, TVAP grantees must prepare and submit a service provider manual for subcontractors that clearly defines standards of care and protocols for comprehensive case management services. This manual must contain information on TVAP requirements; allowable and unallowable costs; the federal definition of human trafficking; pre-certified and certified participants; derivative participants; how to obtain an ORR Certification or Eligibility Letter; the benefits for which victims with ORR Certification and derivatives are eligible; a description of the ORR Matching Grant Program; how to maximize non-TVAP available public funds for services; submitting invoices; reporting requirements; and monitoring. The TVAP grantees must update the service provider manual at least annually. The TVAP grantees must provide the updated manual to the ORR Project Officer at least 30 days prior to implementation by the grantee.
- 7) Within 1 month of award, TVAP grantees must have an electronic system for collecting data listed in *Program Performance Evaluation Plan*.
- 8) Within 60 days of award, TVAP grantees must make a brochure geared toward potential subcontractors that is useful in recruiting them as subcontractors and that provides information about TVAP and services for foreign national trafficking victims and derivatives.
- 9) Multiple grantees must not make subcontracts with the same organization; subcontractors may sign an MOU with only one grantee.
- 10) Adequate organizational capacity and experience with making subcontracts and providing subcontractors with technical assistance and training on topics listed in the PROGRAM REQUIREMENTS for Technical Assistance, Training, and Monitoring.
- 11) Monthly, fiscal year, and *ad hoc* reports showing data listed in *Program Performance Evaluation Plan*.

Note: For more information on application requirements specific to this FOA, please reference *Section IV.2 The Project Description*.

II. Federal Award Information

Funding Instrument Type:	Cooperative Agreement
Estimated Total Funding:	\$6,000,000
Expected Number of Awards:	3
Award Ceiling:	\$6,000,000 Per Budget Period
Award Floor:	\$250,000 Per Budget Period
Average Projected Award Amount:	\$2,000,000 Per Budget Period
Anticipated Project Start Date:	09/30/2015

Length of Project Periods:

36-month project with three 12-month budget periods

Additional Information on Awards:

Awards made under this announcement are subject to the availability of federal funds.

Applications requesting an award amount that exceeds the *Award Ceiling* per budget period or per project period, as stated in this section, will be disqualified from competitive review and from funding under this announcement. This disqualification applies only to the *Award Ceiling* listed for the first 12-month budget period for projects with multiple budget periods. If the project and budget period are the same, the disqualification applies to the *Award Ceiling* listed for the project period. Please see *Section III.3. Other, Application Disqualification Factors*.

Note: For those programs that require matching or cost sharing, grantees will be held accountable for projected commitments of non-federal resources in their application budgets and budget justifications by budget period or by project period for fully funded awards, even if the projected commitment exceeds the required amount of match or cost share. A grantee's failure to provide the required matching amount may result in the disallowance of federal funds. See *Section III.2.* of this announcement for information on cost-sharing or matching requirements.

Awards will be for 1-year budget periods, although the project period will be 3 years. Awards will be contingent upon the outcome of the competition, which includes the process described in *Section V.2. Review and Selection Process*, and the availability of funds. Applicants should provide a detailed budget for the first 12-month budget period.

Applications for continuation grants funded under these awards beyond the 1-year budget period may be entertained on a non-competitive basis, subject to the availability of funds, satisfactory progress of the projects, and a determination that continued funding is in the best interest of the federal government.

Description of ACF's Anticipated Substantial Involvement Under the Cooperative Agreement

Under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. ORR will provide recipients with a cooperative agreement document that further elaborates on the roles and responsibilities of each party and must be signed within 5 days of the notice of the award. Substantial involvement will require that the ORR Project Officer approve the proposed project plan, performance evaluation plan, and budget prior to implementation. Substantial involvement will include collaboration by the ORR Project Officer in certain specified activities as determined by ORR and, as appropriate, will include decision-making at specified milestones related to performance.

Under the cooperative agreement, the successful applicant must participate in status meetings by telephone with ORR representatives to review project implementation (monthly, or as required by the Project Officer).

A successful applicant must submit the following to the ORR Project Officer for review and prior approval throughout the project period:

- Resumes and job descriptions for project staff, including subcontractor staff;
- Names, locations, and full contact information for subcontractor organizations and MOUs with subcontractors; all subcontractors are subject to prior approval by the Project Officer;
- A detailed description of the grantee's and subcontractors' activities, if not described in the project plan;
- Reports following site visits/desk audits of subcontractors within 30 days of site visit/desk audits; and

- All non-Rescue & Restore materials used or created for trainings, technical assistance, or outreach as part of the project supported by TVAP funds; these materials must be submitted to Project Officer 30 days before they are used.

Please see *Section IV.5 Funding Restrictions* for limitations on the use of federal funds awarded under this announcement.

III. Eligibility Information

III.1. Eligible Applicants

This FOA is unrestricted and open to any of the following entities: state governments; county governments; city or township governments; special district governments; independent school districts; public and state controlled institutions of higher education; Native American tribal governments (federally recognized); public housing authorities/Indian housing authorities; Native American tribal organizations (other than federally recognized tribal governments); nonprofits having a 501(c)(3) status with the IRS, other than institutions of higher education; nonprofits without 501(c)(3) status with the IRS, other than institutions of higher education; private institutions of higher education; for-profit organizations other than small businesses; small businesses.

Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this announcement. See *Section III.3. Other, Application Disqualification Factors*.

Faith-based and community organizations that meet the eligibility requirements are eligible to receive awards under this funding opportunity announcement. Faith-based organizations are encouraged to review the ACF Policy on Grants to Faith-Based Organizations at: <http://www.acf.hhs.gov/acf-policy-on-grants-to-faith-based-organizations>.

See "Legal Status of Applicant Entity" in *Section IV.2* for documentation required to support eligibility.

III.2. Cost Sharing or Matching

Cost Sharing / Matching Requirement: No

Refer to *Section IV.2* for information on pre-application submissions.

III.3. Other

DUNS Number and System for Award Management Eligibility Requirements (SAM.gov)

All applicants must have a DUNS Number (<http://fedgov.dnb.com/webform>) and an active registration with the Central Contractor Registry (CCR) on the System for Award Management (SAM.gov, www.sam.gov).

Obtaining a DUNS Number may take 1 to 2 days.

All applicants are required to maintain an active SAM registration until the application process is complete. If a grant is awarded, registration at SAM.gov must be active throughout the life of the award.

Plan ahead. Allow up to 10 business days after you submit your registration for it to become active in SAM and an additional 24 hours before that registration information is available in other government systems, i.e. Grants.gov.

This action should allow you time to resolve any issues that may arise. Failure to comply with these requirements may result in your inability to submit your application through Grants.gov or prevent the award of a grant. Applicants should maintain documentation (with dates) of your efforts to register for, or renew a registration, at SAM. User Guides are available under the "Help" tab at <https://www.sam.gov>.

HHS requires all entities that plan to apply for, and ultimately receive, federal grant funds from any HHS Agency, or receive subawards directly from recipients of those grant funds to:

- Be registered in the SAM prior to submitting an application or plan;
- Maintain an active SAM registration with current information at all times during which it has an active award or an application or plan under consideration by an OPDIV; and
- Provide its active DUNS number in each application or plan it submits to the OPDIV.

ACF is prohibited from making an award until an applicant has complied with these requirements. At the time an award is ready to be made, if the intended recipient has not complied with these requirements, ACF:

- May determine that the applicant is not qualified to receive an award; and
- May use that determination as a basis for making an award to another applicant.

Application Disqualification Factors

Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this announcement.

Award Ceiling Disqualification

Applications that request an award amount that exceeds the *Award Ceiling* per budget period or per project period as stated in *Section II. Federal Award Information*, will be disqualified from competitive review and from funding under this announcement. This disqualification applies only to the *Award Ceiling* listed for first 12-month budget period for projects with multiple budget periods. If the project and budget period are the same, the disqualification applies to the *Award Ceiling* listed for the project period.

Required Electronic Application Submission

ACF requires electronic submission of applications at www.Grants.gov. Paper applications received from applicants that have not been approved for an exemption from required electronic submission will be disqualified from competitive review and from funding under this announcement.

Applicants that do not have an Internet connection or sufficient computing capacity to upload large documents to the Internet may contact ACF for an exemption that will allow the applicant to submit applications in paper format. Information and the requirements for requesting an exemption from required electronic application submission are found in "Request an Exemption from Electronic Application Submission" in *Section IV.2. Content and Form of Application Submission*.

Application Deadlines

The deadline for electronic application submission is 11:59 p.m., ET, on the due date listed in the *Overview* and in *Section IV.3. Submission Dates and Times*. Electronic applications submitted to www.Grants.gov after 11:59 p.m., ET, on the due date, as indicated by a dated and time-stamped email from www.Grants.gov, will be disqualified from competitive review and from funding under this announcement. That is, applications submitted to www.Grants.gov, on or after 12:00 a.m., ET, on the day after the due date will be disqualified from competitive review and from funding under this announcement.

Applications submitted to www.Grants.gov at any time during the open application period, and prior to the due date and time, which fail the www.Grants.gov validation check, will not be received at, or acknowledged by, ACF.

Each time an application is submitted via www.Grants.gov, the submission will generate a new date and time-stamp email notification. Only those applications with on-time date and time stamps that result in a validated application, which is transmitted to ACF, will be acknowledged.

The deadline for receipt of paper applications is 4:30 p.m., ET, on the due date listed in the *Overview* and in *Section IV.3. Submission Dates and Times*. Paper applications received after 4:30 p.m., ET, on the due date will be disqualified from competitive review and from funding under this announcement. Paper applications received from applicants that have not received approval of an exemption from required electronic submission will be disqualified from competitive review and from funding under this announcement.

TVAP Program Requirements Disqualification Factor

Applications that do not address all components of the *Section I. Program Description, Program Requirements* of the FOA, including applications that propose an alternative approach to providing comprehensive case management that is not determined acceptable by ORR, will be disqualified from competitive review and from funding under this announcement. If an alternative approach is proposed, ORR will decide whether to accept the alternative approach, based upon a determination of whether the alternative approach will ensure timely referrals to all services for which the individual is eligible, is not burdensome to the client, and is operationally feasible for ACF; factors to be considered may include, but are not limited to, the additional oversight, administration, or use of resources by ORR required to ensure that program objectives would be met under the alternative approach.

Notification of Application Disqualification

Applications that are disqualified under these criteria are considered to be "non-responsive" and are excluded from the competitive review process. Applicants will be notified of a disqualification determination by email or by USPS postal mail within 30 federal business days from the closing date of this funding opportunity announcement.

IV. Application and Submission Information

IV.1. Address to Request Application Package

Maggie Wynne
Division of Anti-Trafficking in Persons
Office of Refugee Resettlement
370 L'Enfant Promenade SW
8th Floor West
Washington, DC 20447
Phone: (202) 401-4664
Phone 2: (202) 401-5510
Email: trafficking@acf.hhs.gov

Electronic Application Submission:

The electronic application submission package is available in the FOA's listing at www.Grants.gov.

Applications in Paper Format:

For applicants that have received an exemption to submit applications in paper format, Standard Forms, assurances, and certifications are available in the Application Package available in the FOA's Grants.gov synopsis at www.Grants.gov. They are also available at <http://www.grants.gov/web/grants/forms/sf-424->

family.html. See *Section IV.2. Request an Exemption from Required Electronic Application Submission* if applicants do not have an Internet connection or sufficient computing capacity to upload large documents (files) to www.Grants.gov.

Standard Forms that are compliant with Section 508 of the Rehabilitation Act (29 U.S.C. § 794d):
Available at the Grants.gov Forms Repository website at <http://www.grants.gov/web/grants/forms/sf-424-family.html>.

Federal Relay Service:

Hearing-impaired and speech-impaired callers may contact the Federal Relay Service for assistance at 1-800-877-8339 (TTY - Text Telephone or ASCII - American Standard Code For Information Interchange).

Section IV.2. Content and Form of Application Submission

FORMATTING ACF APPLICATIONS

In FY 2013 ACF implemented a new application upload requirement. Each applicant applying electronically via www.grants.gov is required to upload only two electronic files, excluding Standard Forms and OMB-approved forms. No more than two files will be accepted for the review, and additional files will be removed. Standard Forms and OMB-approved forms will not be considered additional files.

FOR ALL APPLICATIONS:

Authorized Organizational Representative (AOR)

AOR is the designated representative of the applicant/recipient organization with authority to act on the organization's behalf in matters related to the award and administration of grants. In signing a grant application, this individual agrees that the organization will assume the obligations imposed by applicable Federal statutes and regulations and other terms and conditions of the award, including any assurances, if a grant is awarded.

AOR authorization is part of the registration process at www.Grants.gov, where the AOR will create a short profile and obtain a username and password from the Grants.gov Credential Provider. AORs will only be authorized for the DUNS number registered in the System for Awards Management (SAM).

Point of Contact

In addition to the AOR, a point of contact on matters involving the application must also be identified. The point of contact, known as the Project Director or Principal Investigator, should not be identical to the person identified as the AOR. The point of contact must be available to answer any questions pertaining to the application.

Application Checklist

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials.

Details concerning acknowledgment of received applications are available in *Section IV.3. Submission Dates and Times* of this announcement.

Accepted Font Style

Applications must be in Times New Roman (TNR), 12-point font, except for footnotes, which may be TNR 10-point font.

Page Limitations

Applicants must observe the page limitation(s) listed under "PAGE LIMITATIONS AND

CONTENT FOR ALL SUBMISSION FORMATS:". *Page limitation(s) do not include SFs and OMB-approved forms.*

All applications must be double-spaced. An application that exceeds the cited page limitation for double-spaced pages in the Project Description file or the Appendices file will have the last extra pages removed and the removed pages will not be reviewed.

Application Elements Exempted from Double-Spacing Requirements

The following elements of the application submission are exempt from the double-spacing requirements and may be single-spaced: the table of contents, the one-page Project Summary/Abstract, required Assurances and Certifications, required SFs, required OMB-approved forms, resumes, logic models, proof of legal status/non-profit status, third-party agreements, letters of support, footnotes, tables, the line-item budget and/or the budget justification.

Adherence to FOA Formatting, Font, and Page Limitation Requirements

Applications that fail to adhere to ACF's FOA formatting, font, and page limitation requirements will be adjusted by the removal of page(s) from the application. Pages will be removed before the objective review. The removed page(s) will not be made available to reviewers.

In instances where formatting and font requirements are not adhered to, ACF uses a formula to determine the actual number of pages to be removed. The formula counts the number of characters an applicant uses when following the instructions and using 12-point TNR and compares the resulting number with that of the submitted application. For example, an applicant using TNR, 11-point font, with 1-inch margins all around, and single-spacing, would have an additional 26 lines, or 1500 characters, which is equal to 4/5 of an additional page. Extra pages resulting from this formula will be removed and will not be reviewed.

Applications that have more than one scanned page of a document on a single page will have the page(s) removed from the review.

For applicants that submit paper applications, double-sided pages will be counted as two pages. When the maximum allowed number of pages is reached, excess pages will be removed and will not be made available to reviewers.

NOTE: Applicants failing to adhere to ACF's FOA formatting, font, and page limitation requirements will receive a letter from ACF notifying them that their application was amended. The letter will be sent after awards have been issued and will specify the reason(s) for removal of page(s).

Copies Required

Applicants must submit one complete copy of the application package electronically. Applicants submitting electronic applications need not provide additional copies of their application package.

Applicants submitting applications in paper format must submit one original and two copies of the complete application, including all Standard Forms and OMB-approved forms. The original copy must have original signatures.

Signatures

Applicants submitting electronic applications must follow the registration and application submission instructions provided at www.Grants.gov.

The original of a paper format application must include original signatures of the authorized representatives.

Accepted Application Format

With the exception of the required Standard Forms (SFs) and OMB-approved forms, all application materials must be formatted so that they are 8 ½" x 11" white paper with 1-inch margins all around.

If possible, applicants are encouraged to include page numbers for each page within the application. ACF generally does not encourage submission of scanned documents as they tend to have reduced clarity and readability. If documents must be scanned, the font size on any scanned documents must be large enough so that it is readable. Documents must be scanned page-for-page, meaning that applicants may not scan more than one page of a document onto a single page.

PAGE LIMITATIONS AND CONTENT FOR ALL SUBMISSION FORMATS:

With the exception of Standard Forms (SFs) and OMB-approved forms, the application submission is limited to 75 pages in its entirety.

The two files applicants must submit are:

- The Project Description file, which includes the Table of Contents, one-page Project Summary/Abstract, Approach, Project Timeline and Milestones, Program Performance Evaluation Plan, Organizational Capacity, Protection of Sensitive and/or Confidential Information, Plan for Oversight of Federal Award Funds, and the Project Budget and Budget Justification; and
- The Appendices file, which includes required Certifications and Assurances, Proof of Legal Status, Third-Party Agreements, Resumes of current staff and/or Position Descriptions, and Letters of Support.

ELECTRONIC APPLICATION SUBMISSION INSTRUCTIONS

Applicants are required to submit their applications electronically unless they have requested and received an exemption that will allow submission in paper format. See *Section IV.2. Application Submission Options* for information about requesting an exemption.

Electronic applications will only be accepted via www.Grants.gov. ACF will not accept applications submitted via email or via facsimile.

Each applicant is required to upload ONLY two electronic files, excluding SFs and OMB-approved forms.

File One: Must contain the entire Project Description, and the Budget and Budget Justification (including a line-item budget and a budget narrative).

File Two: Must contain all documents required in the Appendices.

Adherence to the Two-File Requirement

No more than two files will be accepted for the review. Applications with additional files will be amended and files will be removed from the review. SFs and OMB-approved forms will not be considered additional files. Please do not attach additional documents to the SF-424 at Question 14 and/or after Question 15. Instead of providing a separate response to Question 14, all applicants are required to submit the SF for Project/Performance Site Location(s) (SF-P/PSL). In the SF-P/PSL, applicants may cite their primary location and up to 29 additional performance sites. Documents submitted as attachments to the SF-424 will be removed from the application and will not be reviewed.

Application Upload Requirements

ACF strongly recommends that electronic applications be uploaded as Portable Document Files (PDFs). One file must contain the entire Project Description and Budget Justification; the other file must contain all documents required in the Appendices. Details on the content of each of the two files, as well as page limitations, are listed later in this section.

To adhere to the two-file requirement, applicants may need to convert and/or merge documents together using a PDF converter software. Many recent versions of Microsoft Office include the ability to save

documents to the PDF format without need of additional software. Applicants using the Adobe Professional software suite will be able to merge these documents together. ACF recommends merging documents electronically rather than scanning multiple documents into one document manually, as scanned documents may have reduced clarity and readability.

However, ACF understands that all applicants may not have access to this software. Grants.gov offers a listing of several free PDF conversion programs. These programs can be found on Grants.gov by clicking on "Support" at the top menu bar and selecting "Technical Support". Under the "Technical Support" section select "Recommended Software." A link to "PDF Conversion Software" is available in the left-hand menu box. Free PDF software, available on this page, will allow users to convert and merge their PDF documents. As an example, ACF is providing written instructions for downloading and using one type of free software listed at Grants.gov at <https://www.acf.hhs.gov/grants/howto#chapter-7> under "How to Apply for a Grant/Submit an Application." [ACF does not endorse any of the software listed on Grants.gov, and applicants are not required to use a specific type of PDF conversion software to submit an application.]

For any systems issues experienced with Grants.gov or with SAM.gov, please refer to ACF's "Policy for Applicants Experiencing Federal Systems Issues" document for complete guidance at https://www.acf.hhs.gov/sites/default/files/assets/systems_issue_policy_final.pdf under "How to Apply for a Grant/Submit an Application."

Required Standard Forms (SFs) and OMB-approved Forms

Standard Forms (SFs) and OMB-approved forms, such as the SF-424 application and budget forms and the SF-P/PSL (Project/Performance Site Location), are uploaded separately at Grants.gov. These forms are submitted separately from the Project Description and Appendices files. See *Section IV.2. Required Forms, Assurances, and Certifications* for the listing of required Standard Forms, OMB-approved forms, and required assurances and certifications.

Naming Application Submission Files

Carefully observe the file naming conventions required by www.Grants.gov. Limit file names to 50 characters (characters and spaces). Special characters that are allowed under Grants.gov's naming conventions, and are accommodated by ACF's systems, are listed in the instructions available in the Download Application Package at Grants.gov. Please also see <http://www.grants.gov/web/grants/support/technical-support/troubleshooting/restricting-special-characters.html>

Use only file formats supported by ACF It is critical that applicants submit applications using only the supported file formats listed here. While ACF supports all of the following file formats, we strongly recommend that the two application submission files (Project Description and Appendices) are uploaded as PDF documents in order to comply with the two file upload limitation. Documents in file formats that are not supported by ACF will be removed from the application and will not be used in the competitive review. This may make the application incomplete and ACF will not make any awards based on an incomplete application.

ACF supports the following file formats:

- Adobe PDF – Portable Document Format (.pdf)
- Microsoft Word (.doc or .docx)
- Microsoft Excel (.xls or .xlsx)
- Microsoft PowerPoint (.ppt)
- Corel WordPerfect (.wpd)
- Image Formats (.JPG, .GIF, .TIFF, or .BMP only)

Do Not Encrypt or Password-Protect the Electronic Application Files

If ACF cannot access submitted electronic files because they are encrypted or password protected, the affected file will be removed from the application and will not be reviewed. This removal may make the

application incomplete and ACF will not make awards based on an incomplete application.

FORMATTING FOR PAPER APPLICATION SUBMISSIONS:

The following requirements are only applicable to applications submitted in paper format. Applicants must receive an exemption from ACF in order for a paper format application to be accepted for review. See *Section IV.2, Request an Exemption from Required Electronic Application Submission* later in this section under *Application Submission Options* for more information.

Format Requirements for Paper Applications

All copies of mailed or hand-delivered paper applications must be submitted in a single package. If an applicant is submitting multiple applications under a single FOA, or multiple applications under separate FOAs, each application submission must be packaged separately. The package(s) must be clearly labeled for the specific FOA it addresses by FOA title and by Funding Opportunity Number (FON).

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate sections of the application. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the federal government for review. All application materials must be one-sided for duplication purposes.

Addresses for Submission of Paper Applications

See *Section IV.6. Other Submission Requirements* for addresses for paper format application submissions.

Required Forms, Assurances, and Certifications

Applicants seeking grant or cooperative agreement awards under this announcement must submit the listed Standard Forms (SFs), assurances, and certifications with the application. All required Standard Forms, assurances, and certifications are available in the Application Package posted for this funding opportunity at www.grants.gov.

Other versions of required Standard Forms, assurances, and certifications are available at Grants.gov <http://www.grants.gov/web/grants/forms/sf-424-family.html>.

Forms / Assurances / Certifications	Submission Requirement	Notes / Description
SF-424 Key Contact Form	Submission is required for all applicants by the application due date.	Required for all applications.
SF-424 - Application for Federal Assistance	Submission is required for all applicants by the application due date.	Required for all applications.
Certification Regarding Lobbying (Grants.gov Lobbying Form)	Submission required of all applicants with the application package. If it is not submitted with the application package, it must be submitted prior to the award of a grant.	Submission of the certification is required for all applicants.

SF-Project/Performance Site Location(s) (SF-P/PSL)	Submission is required for all applicants by the application due date.	Required for all applications. In the SF-P/PSL, applicants may cite their primary location and up to 29 additional performance sites. As a Standard Form (SF), this form is not included in the application's page limitation.
SF-424A - Budget Information - Non-Construction Programs and SF-424B - Assurances - Non- Construction Programs	Submission is required for all applicants when applying for a non-construction project. Standard Forms must be used. Forms must be submitted by the application due date.	Required for all applications when applying for a non-construction project. By signing and submitting the SF-424B, applicants are making the appropriate certification of their compliance with all federal statutes relating to nondiscrimination.
DUNS Number (Universal Identifier) and Systems for Award Management (SAM) registration.	A DUNS number is required of all applicants. To obtain a DUNS number, go to http://fedgov.dnb.com/webform . Active registration at the Systems Award Management (SAM) website must be maintained throughout the application and project award period. SAM registration is available at http://www.sam.gov .	A DUNS number and SAM registration are eligibility requirements for all applicants. See <i>Section III.3. Other</i> for information on obtaining DUNS number at http://fedgov.dnb.com/webform and registration at SAM.gov at http://www.sam.gov .
SF-LLL - Disclosure of Lobbying Activities	If submission of this form is applicable, it is due at the time of application. If it is not available at the time of application, it may also be submitted prior to the award of a grant.	If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the applicant shall complete and submit the SF-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Training Certification

Applicants must sign and date a statement certifying that, to the extent practicable, persons or entities providing legal services, social services, health services, or other assistance have completed, or will complete, training in connection with trafficking in persons. This certification must be submitted by the application due date.

ORR Non-discrimination Assurance

Submission of an application for this funding opportunity constitutes assurance that in serving beneficiaries of this program, the applicant:

- has policies prohibiting discrimination and harassment of such beneficiaries based on race, sexual orientation, gender, gender identity (or expression), religion, and national origin in place;
- will be inclusive of and non-stigmatizing toward lesbian, gay, bisexual, and transgender (LGBT) including LGBT youth;
- will ensure that all staff serving program beneficiaries are trained to prevent and respond to harassment in all forms; and
- is prepared to monitor claims of harassment and discrimination of beneficiaries, address them seriously, and document corrective action(s) so all participants are assured that programs are safe, inclusive, and non-stigmatizing by design and in operation.

Submission of an application for this award further constitutes an assurance that any subcontractors:

- will be inclusive of and non-stigmatizing toward LGBT refugees, including LGBT youth;
- will ensure that all staff will be trained prior to program implementation on how to prevent and respond to harassment and discrimination of beneficiaries in all forms, and;
- are prepared to monitor claims of harassment and discrimination of beneficiaries, address them seriously, and document corrective action(s) so all participants are assured that programs are safe, inclusive, and non-stigmatizing by design and in operation.

Non-Federal Reviewers

Since ACF will be using non-federal reviewers in the review process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget as well as Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information. If applicants are submitting their application electronically, ACF will omit the same specific salary rate information from copies made for use during the review and selection process.

The Project Description

Part I: The Project Description Overview

Purpose

The project description provides the majority of information by which an application is evaluated and ranked in competition with other applications for available assistance. It should address the activity for which federal funds are being requested, and should be consistent with the goals and objectives of the program as described in *Section I. Program Description*. Supporting documents should be included where they can present information clearly and succinctly. When appropriate, applicants should cite the evaluation criteria that are relevant to specific components of their project description. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Expectations and Instructions

Applicants should develop project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or

information that does not directly pertain to an integral part of the grant-funded activity should be placed in an appendix.

Part II: General Instructions for Preparing a Full Project Description

Introduction

Applicants must prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria in *Section V.1. Criteria*. The text options give a broad overview of what the project description should include while the evaluation criteria identify the measures that will be used to evaluate applications.

Letter of Intent

Applicants are strongly encouraged to notify ACF of their intention to submit an application under this announcement. Please submit the letter of intent by the deadline date listed in *Section IV.3. Submission Dates and Times*.

The letter of intent should include the following information: number and title of this announcement; the name and address of the applicant organization; and/or Fiscal Agent (if known); and the name, phone number, fax number and email address of a contact person.

Letter of intent information will be used to determine the number of expert reviewers needed to evaluate applications. The letter of intent is optional. Failure to submit a letter of intent will not impact eligibility to submit an application and will not disqualify an application from competitive review.

Letters of intent should be sent to the attention of Maggie Wynne, Director, Division of Anti-Trafficking in Persons (ATIP), Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade SW, 8th Floor West, Washington, DC 20447.

Potential applicants can also fax letters of intent to (202) 401-5487 or email them to trafficking@acf.hhs.gov.

Table of Contents

List the contents of the application including corresponding page numbers. The table of contents must be single spaced and will be counted against the total page limitations.

Project Summary/Abstract

Provide a summary of the application's project description. The summary must be clear, accurate, concise, and without reference to other parts of the application. The abstract must include a brief description of the proposed grant project including the needs to be addressed, the proposed services, and the population group(s) to be served.

Please place the following at the top of the abstract:

- Project Title
- Applicant Name
- Address
- Contact Phone Numbers (Voice, Fax)
- E-Mail Address
- Web Site Address, if applicable

The project abstract must be single-spaced, in Times New Roman 12-point font, and limited to one page in length. Additional pages will be removed and will not be reviewed.

Approach

Outline a plan of action that describes the scope and detail of how the proposed project will be accomplished. Applicants must account for all functions or activities identified in the application. Describe any design or technological innovations, reductions in cost or time, or extraordinary social and/or community involvement in the project. Provide a list of organizations, cooperating entities, consultants, or other key individuals that will work on the project, along with a short description of the nature of their effort or contribution.

Cite potential obstacles and challenges to accomplishing project goals and explain strategies that will be used to address these challenges.

Project Plan

- The applicant must clearly articulate in its plan how it will achieve each of the four objectives listed under *Section I. Program Description, Program Objectives*.
- The applicant must describe how its plan will fulfill the requirements addressed in *Section I. Program Description, Program Requirements, TVAP Participant Eligibility*.
- The applicant must describe how its plan will fulfill the requirements addressed in *Section I. Program Description, Program Requirements, Comprehensive Case Management Services* and *Section I. Program Description, ADDITIONAL INFORMATION, Comprehensive Case Management Services*.
- The applicant must clearly state in the application if the plan includes provision of comprehensive case management services or if the applicant is requesting a religious accommodation through the proposal of an alternative approach to providing comprehensive case management services.
- If an applicant has a religious objection to providing any of the services or referrals required in the program, it must explicitly describe the approach to meeting its grant obligations consistent with ACF's faith-based policy. The alternative approach must be one that accomplishes the goal of ensuring that trafficking victims understand the full range of services available to them, including reproductive health services, and that there is a mechanism by which victims requesting such services can receive appropriate referrals. The alternative approach must ensure timely referrals to all services for which the individual is eligible, not be burdensome to the client, and be operationally feasible for ORR.
- The applicant must describe evaluative benchmarks regarding a pre-certified victim's progress in achieving ORR certification and show how it will use these benchmarks to evaluate subsequent approval for enrollment beyond initial enrollment.
- The applicant must describe how its plan accords with the requirements listed in *Section I. Program Description, Program Requirements, Per Capita Services* and *Section I. Program Description, ADDITIONAL INFORMATION, Per Capita Services*.
- The applicant must clearly define the dollar value of the per capita benefit available to be provided to each qualified person to be served under this funding opportunity, and may scale that value to the level of assistance provided during a defined unit of time, such as a month, and to the number of qualified persons in a family.
- The applicant must provide separate per capita dollar amounts for administrative and participant expenses.
- The applicant must describe how its plan accords with the requirements addressed in *Section I. Program Description, Program Requirements, Nationwide or Regional Service Capacity* and *Section I. Program Description, Program Requirements, Nationwide or Regional Service Capacity*.

Program Description, ADDITIONAL INFORMATION, Nationwide or Regional Service Capacity.

- The applicant must describe the specific geographic area in which it will provide full coverage for comprehensive case management services.
- The applicant must describe its criteria for the selection of subcontractors.
- The applicant must list the names of subcontractor organizations that will provide comprehensive case management services and provide copies of signed MOUs.
- The applicant must describe how its plan accords with the requirements addressed in *Section I. Program Description, Program Requirements, Technical Assistance, Training, and Monitoring*.
- The applicant must show how its plan meets the requirements listed in *Section I. Program Description, POST-AWARD REQUIREMENTS*.
- The applicant must describe activities supporting the Performance Indicators referenced in *Section I. Program Description, Program Requirements, Program Performance Evaluation Plan*.

Organizational Experience

- The applicant must describe in detail the professional qualifications of main project staff who will be responsible for providing comprehensive case management services; determining eligibility and length of enrollment for participants; and selecting, reimbursing, training, assisting, and monitoring subcontractors.
- The applicant organization must describe its relevant experience and expertise with administration, development, implementation, management, and evaluation of trafficking programs similar to that offered under this announcement.
- The applicant must demonstrate experience providing training and technical assistance on TVAP, comprehensive case management services, and ORR certification to service providers and those communities or professions who work with foreign victims of human trafficking.
- The applicant must describe its network and infrastructure as it supports the resettlement of refugees and further complements services for victims of trafficking through this award.
- The applicant must demonstrate its experience managing federal grants with subcontracts. The applicant must provide information on any previous federal grants or contracts received to assist foreign victims of trafficking and describe the purpose of the award(s) and the results achieved with federal funds.

Service Capacity

- The applicant must demonstrate that it has significant experience in identifying and assisting both labor trafficking and sex trafficking victims, as defined by Section 103(14) of the TVPA, in non-U.S. citizen and non-LPR populations, including adults, children, males, and females.
- The applicant must demonstrate that it has the capacity to provide resettlement benefits and case management services to refugees through an established infrastructure that is fully equipped to address the needs of victims of trafficking.
- The applicant must demonstrate that it can provide full coverage of comprehensive services in a

geographic area that includes at least 1 of the 10 ACF Regions directly through its own organization, or by partnering with organizations through contracts, or both.

Performance Indicators

The applicant must provide realistic and achievable target numbers for year one of the project period for each of the following program objectives:

Comprehensive Case Management Services

- The number of participants served; and
- The number of pre-certified participants who will achieve ORR certification within 12 months of TVAP enrollment.

Nationwide or Regional Service Capacity

- The number of subcontractors with signed MOUs; and
- The number of persons reached through outreach to service providers, attorneys, law enforcement officials, and DHS and FBI victim specialists about TVAP, services, and ORR Certification.

Technical Assistance, Training and Monitoring

- The number of trainings for subcontractors with signed MOUs; and
- The number of monitoring visits and desk audits for subcontractors.

Project Timeline and Milestones

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function, or activity, in such terms as the number of people to be served and the number of activities accomplished. Data may be organized and presented as project tasks and subtasks with their corresponding timelines during the project period. For example, each project task could be assigned to a row in the first column of a grid. Then, a unit of time could be assigned to each subsequent column, beginning with the first unit (i.e., week, month, quarter) of the project and ending with the last. Shading, arrows, or other markings could be used across the applicable grid boxes or cells, representing units of time, to indicate the approximate duration and/or frequency of each task and its start and end dates within the project period.

When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Program Performance Evaluation Plan

Applicants must describe the plan for the program performance evaluation that will contribute to continuous quality improvement. The program performance evaluation should monitor ongoing processes and the progress towards the goals and objectives of the project. Include descriptions of the inputs (e.g., organizational profile, collaborative partners, key staff, budget, and other resources), key processes, and expected outcomes of the funded activities. The plan may be supported by a logic model and must explain how the inputs, processes and outcomes will be measured, and how the resulting information will be used to inform improvement of funded activities.

Applicants must describe the systems and processes that will support the organization's performance management requirements through effective tracking of performance outcomes, including a description of how the organization will collect and manage data (e.g. assigned skilled staff, data management software) in a way that allows for accurate and timely reporting of performance outcomes. Applicants must describe any potential obstacles for implementing the program performance evaluation and how those obstacles will be addressed.

The applicant must clearly articulate how its program performance evaluation plan correlates with collecting and managing ORR performance indicators identified in *Section I. Program Description, Program Requirements, Program Performance Evaluation Plan*.

The applicant must allocate sufficient resources for the program performance evaluation. Applicants should budget for data collection, management, and reporting.

Legal Status of Applicant Entity

Applicants must provide the following documentation:

Governing Board Membership documentation and/or articles of incorporation.

Non-profit organizations applying for funding are required to submit proof of their non-profit status. Proof of non-profit status is any one of the following:

- A reference to the applicant organization's listing in the IRS's most recent list of tax-exempt organizations described in the IRS Code.
- A copy of a currently valid IRS tax-exemption certificate.
- A statement from a state taxing body, state attorney general, or other appropriate state official certifying that the applicant organization has non-profit status and that none of the net earnings accrue to any private shareholders or individuals.
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.
- Any of the items in the subparagraphs immediately above for a state or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Unless directed otherwise, applicants must include proof of non-profit status in the *Appendices* file of the electronic application submission.

Organizational Capacity

Provide the following information on the applicant organization and, if applicable, on any cooperating partners:

- Organizational charts;
- Resumes (no more than two single-spaced pages in length);
- Evidence that the applicant organization, and any partnering organizations, have relevant experience and expertise with administration, development, implementation, management, and evaluation of programs similar to that offered under this announcement;

Protection of Sensitive and/or Confidential Information

If any confidential or sensitive information will be collected during the course of the project, whether from staff (e.g., background investigations) or project participants and/or project beneficiaries, provide a description of the methods that will be used to ensure that confidential and/or sensitive information is properly handled and safeguarded. Also provide a plan for the disposition of such information at the end of the project period.

Third-Party Agreements

Third-party agreements include Memoranda of Understanding (MOU) and Letters of Commitment. General letters of support are not considered to be third-party agreements. Third-party agreements must clearly describe the project activities and support to which the third party is committing. Third-party agreements must be signed by the person in the third-party organization with the authority to make such commitments on behalf of their organization.

Provide written and signed agreements between grantees and subgrantees, or subcontractors, or other cooperating entities. These agreements must detail the scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters Of Support

Provide statements from community, public, and commercial leaders that support the project proposed for funding. All submissions must be included in the application package.

Plan for Oversight of Federal Award Funds

Provide a plan describing how oversight of federal funds will be ensured and how grant activities and partner(s) will adhere to applicable federal and programmatic regulations. Applicants must identify staff that will be responsible for maintaining oversight of program activities, staff, and partner(s). Applicants must describe procedures and policies used to oversee staff and/or partners/contractors.

Describe organizational records systems that relate financial data to performance data by identifying the source and application of federal funds so that they demonstrate effective control over and accountability for funds, compare outlays with budget amounts, and provide accounting records supported by source documentation.

The Project Budget and Budget Justification

All applicants are required to submit a project budget and budget justification with their application. The project budget is entered on the Budget Information Standard Form, either SF-424A or SF-424C, according to the directions provided with the SFs. The budget justification consists of a budget narrative and a line-item budget detail that includes detailed calculations for "object class categories" identified on the Budget Information Standard Form. Applicants must indicate the method they are selecting for their indirect cost rate. See Indirect Charges for further information.

Project budget calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. If matching or cost sharing is a requirement, applicants must include a detailed listing of any funding sources identified in Block 18 of the SF-424 (Application for Federal Assistance). See the table in *Section IV.2. Required Forms, Assurances, and Certifications* listing the appropriate budget forms to use in this application.

Special Note: The Consolidated and Further Continuing Appropriations Act, 2015 (Pub.L. 113-235), enacted December 16, 2014, limits the salary amount that may be awarded and charged to ACF grants and cooperative agreements. Award funds issued under this announcement may not be used to pay the salary, or any percentage of salary, to an individual at a rate in excess of Executive Level II. The Executive Level II salary of the Federal Executive Pay scale is \$183,300. Please see <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2015/executive-senior-level>. This amount reflects an individual's base salary exclusive of fringe benefits and any income that an individual may be permitted to earn outside of the duties to the applicant organization. This salary limitation also applies to subawards/subcontracts under a ACF grant or cooperative agreement.

Provide a budget using the 424A and/or 424C, as applicable, for each year of the proposed project. Provide a budget justification, which includes a budget narrative and a line-item detail, for the first year of the proposed project. The budget narrative should describe how the categorical costs are derived. Discuss the necessity, reasonableness, and allocation of the proposed costs.

Note: This solicitation does not require a match. However, if a successful application proposes a voluntary matching or cost-sharing amount, and ACF approves the budget, the total matching or cost-sharing amount incorporated into the approved budget becomes mandatory and subject to audit. The recipient will be held accountable for these voluntary funds and must report them on federal financial reports.

General

Use the following guidelines for preparing the budget and budget justification. When a match or cost share is required, both federal and non-federal resources must be detailed and justified in the budget and budget narrative justification. "Federal resources" refers only to the ACF grant funds for which the applicant is applying. "Non-federal resources" are all other non-ACF federal and non-federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, federal budget; next column(s), non-federal budget(s); and last column, total budget. The budget justification should be in a narrative form.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known at the time of application. For each staff person provide: the title; time commitment to the project in months; time commitment to the project as a percentage or full-time equivalent: annual salary; grant salary; wage rates; etc. Do not include the costs of consultants, personnel costs of delegate agencies, or of specific project(s) and/or businesses to be financed by the applicant. Contractors and consultants should not be placed under this category.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, Federal Insurance Contributions Act (FICA) taxes, retirement insurance, and taxes.

Travel

Description: Costs of out-of-state or overnight project-related travel by employees of the applicant organization. Do not include in-state travel or consultant travel.

Justification: For each trip show the total number of traveler(s); travel destination; duration of trip; per diem; mileage allowances, if privately owned vehicles will be used to travel out of town; and other transportation costs and subsistence allowances. If appropriate for this project, travel costs for key project staff to attend ACF-sponsored workshops/conferences/grantee orientations should be detailed in the budget.

Equipment

Description: "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year per unit and an acquisition cost that equals or exceeds the lesser of: (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5,000.

(Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and

installation, shall be included in or excluded from acquisition cost in accordance with the applicant organization's regular written accounting practices.)

Justification: For each type of equipment requested applicants must provide a description of the equipment; the cost per unit; the number of units; the total cost; and a plan for use of the equipment in the project; as well as a plan for the use, and/or disposal of, the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy, or section of its policy, that includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category. This includes office and other consumable supplies with a per-unit cost of less than \$5,000.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third-party evaluation contracts, if applicable, and contracts with secondary recipient organizations (with budget detail), including delegate agencies and specific project(s) and/or businesses to be financed by the applicant. This area is not for individual consultants.

Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open, and free competition. Recipients and subrecipients, other than states that are required to use 45 CFR Part 75 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceeds the simplified acquisition threshold fixed by 41 U.S.C. § 134, as amended by 2 CFR Part 200.88, and currently set at \$150,000. Recipients may be required to make pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., available to ACF.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each contractor/sub-contractor, by agency title, along with the same supporting information referred to in these instructions. If the applicant plans to select the contractors/sub-contractors post-award and a detailed budget is not available at the time of application, the applicant must provide information on the nature of the work to be delegated, the estimated costs, and the process for selecting the delegate agency.

Other

Description: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to: consultant costs, local travel; insurance; food (when allowable); medical and dental costs (noncontractual); professional services costs (including audit charges); space and equipment rentals; printing and publication; computer use; training costs, such as tuition and stipends; staff development costs; and administrative costs.

Justification: Provide computations, a narrative description, and a justification for each cost under this category.

Paperwork Reduction Disclaimer

As required by the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3521, the public reporting burden for the Project Description and Budget/Budget Justification is estimated to average 60 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection information. The Project Description information collection is approved under OMB control number 0970-0139, which expires 10/31/2015. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Application Submission Options

Electronic Submission via www.Grants.gov

- Additional guidance on the submission of electronic applications can be found at <http://www.grants.gov/web/grants/applicants/apply-for-grants.html>.
- If applicants encounter any technical difficulties in using www.Grants.gov, contact the Grants.gov Contact Center at: 1-800-518-4726, or by email at support@grants.gov, to report the problem and obtain assistance. Hours of Operation: 24 hours a day, 7 days a week. The Grants.gov Contact Center is closed on federal holidays.
- Applicants should always retain Grants.gov Contact Center service ticket number(s) as they may be needed for future reference.
- Contact with the Grants.gov Contact Center prior to the listed application due date and time does not ensure acceptance of an application. If difficulties are encountered, the Grants Management Officer listed in *Section VII. Agency Contacts* will determine whether the submission issues are due to Grants.gov system errors or user error.

Application Validation at www.Grants.gov

After an application has been successfully submitted to www.Grants.gov, it still must pass a series of validation checks. After an application is submitted, Grants.gov generates a submission receipt via email and also sets the application status to "Received." This receipt verifies that the application has been successfully delivered to the Grants.gov system.

Next, Grants.gov verifies the submission is valid by ensuring it does not contain viruses, the opportunity is still open, and the applicant login and applicant DUNS number match. If the submission is valid, Grants.gov generates a submission validation receipt via email and sets the application status to "Validated."

If the application is not validated, the application status is set to "Rejected." The system sends a rejection email notification to the applicant and the applicant must re-submit the application package. See "What to Expect After Submitting" at www.Grants.gov for more information.

Each time an application is submitted, or resubmitted, via www.Grants.gov, the application will receive a new date and time stamp. Only those applications with on-time date and time stamps that result in a validated application, which are transmitted to ACF, will be acknowledged.

Applicants will be provided with an acknowledgement from Grants.gov that the submitted application package has passed, or failed, a series of checks and validations. Applications that are submitted on time that fail the validation check will not be transmitted to ACF and will not be acknowledged.

NOTE: The Grants.gov validation check can affect whether the application is accepted for review. If an application fails the Grants.gov validation check and is not resubmitted by 11:59 p.m., ET, on the due date, it will not be transmitted to ACF and will be excluded from the review.

Similarly, if an applicant resubmits their application to Grants.gov by 11:59 p.m., ET, on the due date, and the resubmitted application does not pass the validation check, it will not be transmitted to ACF and will be excluded from the review.

Systems Issues

For any systems issues experienced with Grants.gov or SAM.gov, please refer to ACF's "Policy for Applicants Experiencing Federal Systems Issues" document for complete guidance at https://www.acf.hhs.gov/sites/default/files/assets/systems_issue_policy_final.pdf.

Request an Exemption from Required Electronic Application Submission

ACF recognizes that some applicants may have limited or no Internet access, and/or limited computer capacity, which may prohibit them from uploading large files at www.Grants.gov. To accommodate such applicants, ACF offers an exemption from required electronic submission. The exemption will allow applicants to submit hard copy, paper applications by hand-delivery, applicant courier, overnight/express mail couriers, or by other representatives of the applicant.

To receive an exemption from required electronic application submission, applicants must submit a written request to ACF that must state that the applicant qualifies for the exemption for one of the two following reasons:

- Lack of Internet access or Internet connection, or
- Limited computer capacity that prevents the uploading of large documents (files) at www.Grants.gov.

Applicants may request and receive the exemption from required electronic application submission by either:

- Submitting an email request to electronicappexemption@acf.hhs.gov, or
- Sending a written request to the Office of Grants Management Contact listed in *Section VII. Agency Contacts* in this announcement.

Requests for exemption from required electronic application submission will be acknowledged with an approval or disapproval.

Requests that do not state one of the two listed reasons will not be approved.

An exemption is applicable to all applications submitted by the applicant organization during the Federal Fiscal Year (FFY) in which it is received. Applicants need only request an exemption once in a FFY. Applicants must request a new exemption from required electronic submission for any succeeding FFY.

Please Note: electronicappexemption@acf.hhs.gov may only be used to request an exemption from required electronic submission. All other inquiries must be directed to the appropriate Agency Contact listed in *Section VII.* of this announcement. Queries or requests submitted to this email address for any reason other than a request for an exemption from electronic application submission will not be acknowledged or answered.

All exemption requests must include the following information:

- Funding Opportunity Announcement Title,
- Funding Opportunity Number (FON),
- The listed Catalog of Federal Domestic Assistance (CFDA) number,
- Name of Applicant Organization and DUNS Number,
- AOR name and contact information,
- Name and contact information of person to be contacted on matters involving the application (i.e., the Point of Contact), and
- The reason for which the applicant is requesting an exemption from electronic application submission. The request for exemption must state one of the following two reasons: 1) lack of Internet access or Internet connection; or 2) lack of computer capacity that prevents uploading large documents (files) to the Internet.

Exemption requests must be received by ACF no later than two weeks before the application due date, that is, 14 calendar days prior to the application due date listed in the *Overview* and in *Section IV.3. Submission Dates and Times*. If the fourteenth calendar day falls on a weekend or federal holiday, the due

date for receipt of an exemption request will move to the next federal business day that follows the weekend or federal holiday.

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials. Details concerning acknowledgment of received applications are available in *Section IV.3. Submission Dates and Times* of this announcement.

Paper Format Application Submission

An exemption is now required for the submission of paper applications. See the preceding section on "*Request an Exemption from Required Electronic Application Submission.*"

Applicants with exemptions that submit their applications in paper format, by mail or delivery, must submit one original and two copies of the complete application with all attachments. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by the AOR, and be unbound. The original copy of the application must have original signature(s). See *Section IV.6.* of this announcement for address information for paper format application submissions. Applications submitted in paper format must be received by 4:30 p.m., ET, on the due date.

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials. Details concerning acknowledgment of received applications are available in *Section IV.3. Submission Dates and Times* in this announcement.

IV.3. Submission Dates and Times

Due Date for Letter of Intent

Due Date for Letter of Intent: **07/20/2015**

Due Date for Applications: **08/19/2015**

Explanation of Due Dates

The due date for receipt of applications is listed in the *Overview* section and in this section. See *Section III.3. Application Disqualification Factors.*

Electronic Applications

The deadline for submission of electronic applications via www.Grants.gov is 11:59 p.m., ET, on the due date. Electronic applications submitted at 12:00 a.m., ET, on the day after the due date will be considered late and will be disqualified from competitive review and from funding under this announcement.

Applicants are required to submit their applications electronically via www.Grants.gov unless they received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission.*

ACF does not accommodate transmission of applications by email or facsimile.

Instructions for electronic submission via www.Grants.gov are available at:

http://www.grants.gov/applicants/apply_for_grants.jsp.

Applications submitted to www.Grants.gov at any time during the open application period prior to the due date and time that fail the Grants.gov validation check will not be received at ACF. These applications will not be acknowledged.

Mailed Paper Format Applications

The deadline for mailed paper applications is 4:30 p.m., ET, on the due date. Mailed paper applications received after the due date and deadline time will be considered late and will be disqualified from competitive review and from funding under this announcement.

Paper format application submissions will be disqualified if the applicant organization has not received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission.*

Hand-Delivered Paper Format Applications

Applications that are hand-delivered by applicants, applicant couriers, by overnight/express mail couriers, or other representatives of the applicant must be received on, or before, the due date listed in the *Overview* and in this section. These applications must be delivered between the hours of 8:00 a.m. and 4:30 p.m., ET, Monday through Friday (excluding federal holidays). Applications should be delivered to the address provided in *Section IV.6. Other Submission Requirements.*

Hand-delivered paper applications received after the due date and deadline time will be considered late and will be disqualified from competitive review and from funding under this announcement.

Hand-delivered paper format application submissions will be disqualified if the applicant organization has not received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission.*

No appeals will be considered for applications classified as late under the following circumstances:

- Applications submitted electronically via www.Grants.gov are considered late when they are dated and time-stamped after the deadline of 11:59 p.m., ET, on the due date.
- Paper format applications received by mail or hand-delivery after 4:30 p.m., ET, on the due date will be classified as late and will be disqualified.
- Paper format applications received from applicant organizations that were not approved for an exemption from required electronic application submission under the process described in *Section IV.2. Request an Exemption from Required Electronic Submission* will be disqualified.

Extensions and/or Waiving Due Date and Receipt Time Requirements

ACF may extend an application due date and receipt time when circumstances make it impossible for applicants to submit their applications on time. These events include natural disasters (floods, hurricanes, tornados, etc.), or when there are widespread disruptions of electrical service, or mail service, or in other rare cases. The determination to extend or waive due date and/or receipt time requirements rests with the Grants Management Officer listed as the Office of Grants Management Contact in *Section VII. Agency Contacts.*

Acknowledgement from www.Grants.gov

Applicants will receive an initial email upon submission of their application to www.Grants.gov. This email will provide a **Grants.gov Tracking Number**. Applicants should refer to this tracking number in all communication with Grants.gov. The email will also provide a **date and time stamp**, which serves as the official record of application's submission. Receipt of this email does not indicate that the application is accepted or that it has passed the validation check.

Applicants will be provided with an acknowledgement from www.Grants.gov that the submitted application package has passed, or failed, a series of checks and validations. Applications that are submitted on time that fail the validation check will not be transmitted to ACF and will not be acknowledged.

See "What to Expect After Submitting" at www.Grants.gov for more information.

Acknowledgement from ACF of an electronic application's submission:

Applicants will be sent additional email(s) from ACF acknowledging that the application has been retrieved from www.Grants.gov by ACF. Receipt of these emails is not an indication that the application is accepted for competition.

Acknowledgement from ACF of receipt of a paper format application

ACF will not provide acknowledgement of receipt of hard copy application packages submitted via mail or courier services.

IV.4. Intergovernmental Review of Federal Programs

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs." and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Executive Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

Applicants should go to the following URL for the official list of the jurisdictions that have elected to participate in E.O. 12372 http://www.whitehouse.gov/omb/grants_s poc.

Applicants from participating jurisdictions should contact their SPOC, as soon as possible, to alert them of their prospective applications and to receive instructions on their jurisdiction's procedures. Applicants must submit all required application materials to the SPOC and indicate the date of submission on the Standard Form (SF) 424 at item 19.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application due date to comment on proposed new awards.

SPOC comments may be submitted directly to ACF to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade SW., 6th Floor East, Washington, DC 20447.

Entities that meet the eligibility requirements of this announcement are still eligible to apply for a grant even if a State, Territory or Commonwealth, etc., does not have a SPOC or has chosen not to participate in the process. Applicants from non-participating jurisdictions need take no action with regard to E.O. 12372. Applications from Federally-recognized Indian Tribal governments are not subject to E.O. 12372.

IV.5. Funding Restrictions

Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are considered unallowable costs under grants or cooperative agreements awarded under this funding opportunity announcement.

Note: Costs incurred for grant application preparation are not considered allowable costs under an award and may not be included in the project budget or budget justification.

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this grant award.

Purchase of real property is not an allowable activity or expenditure under this grant award.

No HHS funds may be expended for an abortion, except in cases where pregnancy is a result of rape or incest or where the woman suffers from a physical condition that would place her life in danger unless an abortion is performed. Consolidated Appropriations Act, 2014, Pub.L. No. 113-76 §§ 506, 507.

No funds made available through this grant may be used to promote, support, or advocate the legalization or practice of prostitution. Nothing in the preceding sentence shall be construed to preclude assistance designed to promote the purposes of the Trafficking Victims Protection Act of 2000 by ameliorating the suffering of, or health risks to, victims while they are being trafficked or after they are out of the situation that resulted from such victims being trafficked.

HHS funds may not be paid as profit to any recipient even if the recipient is a commercial organization (45 CFR 75.215(b)).

IV.6. Other Submission Requirements

Submit paper applications to one of the following addresses. Also see *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

Submission By Mail

William Kim
Office of Grants Management, 6th Floor East
Division of Discretionary Grants
Administration for Children and Families
370 L'Enfant Promenade, SW
Washington, DC 20447

Hand Delivery

William Kim
Office of Grants Management, 6th Floor East
Division of Discretionary Grants
Administration for Children and Families
901 D St. SW, Aerospace Building
ACF Mailroom, 2nd Floor (near loading dock)
Washington, DC 20024

Electronic Submission

See *Section IV.2* for application requirements and for guidance when submitting applications electronically via <http://www.Grants.gov>.

For all submissions, see *Section IV.3. Submission Dates and Times*.

V. Application Review Information

V.1. Criteria

Please note: Reviewers will not access, or review, any materials that are not part of the application documents. This includes information accessible on websites via hyperlinks that are referenced, or embedded, in the application. Though an application may include web links, or embedded hyperlinks, reviewers will not review this information as it is not considered to be part of the application documents. Nor will the information on websites be taken into consideration in scoring of evaluation criteria presented in this section. Reviewers will evaluate and score an application based on the documents that are presented in the application and will not refer to, or access, external links during the objective review.

Applications competing for financial assistance will be reviewed and evaluated using the criteria described in this section. The corresponding point values indicate the relative importance placed on each review criterion. Points will be allocated based on the extent to which the application proposal addresses each of the criteria listed. Applicants should address these criteria in their application materials, particularly in the project description and budget justification, as they are the basis upon which competing applications will be judged during the objective review. The required elements of the project description and budget justification may be found in *Section IV.2* of this announcement.

Approach**Maximum Points: 30**

The applicant proposes a sound technical approach for addressing the following four *Program Objectives* described in *Section I. Program Description*:

Comprehensive Case Management Services

1. The applicant demonstrates that its plan to provide comprehensive case management is sound. The applicant demonstrates the capacity and ability to carry out the plan set forth in the proposal to achieve program requirements for service delivery listed under *Comprehensive Case Management Services* in *Section I. Program Description* and *Section IV.2, The Project Description, Approach*, including target numbers of qualified participants to serve and of pre-certified victims to obtain ORR certification. (0-5 points)
2. The applicant describes a sound plan to determine eligibility for each participant for TVAP services that is in accord with the requirements listed under *Section I. Program Description, Program Requirements, TVAP Participant Eligibility* and *Section IV.2, The Project Description, Approach*. (0-3 points).
3. The target numbers of participants to serve and of pre-certified victims to obtain HHS certification are reasonable and appropriate. (0-2 points)

Per Capita Services

1. The applicant's plan makes administrative and participant funding available on a per capita basis only for qualified persons that is in accord with the program objective, requirements, and additional information listed under *Per Capita Services* in *Section I. Program Description* and *Section IV.2, The Project Description, Approach*. (0-4 points)
2. The applicant clearly defines the dollar value of the per capita benefit available to be provided to each qualified person served under this funding opportunity and provides separate per capita dollar amounts for administrative and participant expenses. (0-3 points)

Nationwide or Regional Service Capacity

1. The applicant demonstrates a sound plan for providing nationwide capacity for comprehensive case management services or for a designated geographic region that fully addresses the program objective, requirements, and additional information listed under *Nationwide or Regional Service Capacity* in *Section I. Program Description* and the requirements of *Section IV.2, The Project Description, Approach*, including target numbers for the number of subcontractors with MOUs and the number of persons to which it will conduct outreach. (0-3 points)
2. If the applicant will provide services through subcontracts with other organizations, the applicant shows how it will recruit, select, and work with these organizations. (0-3 points)

Technical Assistance, Training, and Monitoring

1. The applicant describes how it will provide technical assistance, training, and monitoring to subcontractors that fully accords with the program objective and requirements listed under *Technical Assistance, Training, and Monitoring* in *Section I. Program Description* and the requirements of *Section IV.2, The Project Description, Approach*. (0-3 points)
2. The applicant shows how it will provide training on, or ensure subcontractors knowledge of, all topics listed under program requirements for *Technical Assistance, Training, and Monitoring* in *Section I. Program Description*. (0-2 points)
3. The applicant provides reasonable target numbers for the number of trainings for subcontractors, the number of participants in subcontractor trainings, and the number of monitoring visits and desk audits for subcontractors. (0-2 points)

Organizational Experience**Maximum Points: 25**

1. The applicant describes in detail the professional qualifications of main project staff who will be responsible for main project activities including providing and/or overseeing comprehensive case management services and determining the eligibility and length of enrollment for participants. (0-2 points)
2. The applicant demonstrates it has well-qualified staff for selecting, reimbursing, training, assisting, and monitoring subcontractors. (0-2 points)
3. The applicant demonstrates that it has the capacity to provide resettlement benefits and case management services to refugees through an established infrastructure and network that is fully equipped to address the needs of foreign victims of trafficking. (0-4 points)
4. The applicant demonstrates experience providing training and technical assistance on TVAP, comprehensive case management services, and ORR certification to service providers and those in communities or professions who work with foreign victims of human trafficking. (0-4 points)
5. The applicant demonstrates experience in managing federal grants with subcontracts. The applicant provides information on any previous federal grants or contracts received to assist foreign victims of trafficking and describes the purpose of the award(s) and the results achieved with federal funds. (0-4 points)
6. The responsibilities and roles of the organization's staff, and if applicable, partnering organizations, are specifically stated and substantiated by requirements stated in *Section IV.2, The Project Description, Organizational Experience.* (0-4 points)
7. The applicant describes a clear plan for the oversight of federal funds and shows how it will ensure grant activities and partner(s) will adhere to applicable federal and programmatic regulations. The applicant identifies staff who will be responsible for program oversight and describes the procedures and policies that will be used to oversee staff and/or partners/contractors. (0-3 points)
8. The applicant describes the organizational records systems that will be used to ensure financial data accords with programmatic functions. (0-2 points)

Service Capacity**Maximum Points: 15**

1. The applicant demonstrates it has significant experience in identifying and assisting victims of labor trafficking and sex trafficking in non-U.S. citizen and non-LPR populations, including adults, children, males, and females. (0-5 points)
2. The applicant demonstrates it has significant experience providing benefits and services to refugees directly through its own organization, or by partnering with other organizations through contracts, or both. (0-5 points)
3. The applicant demonstrates it can provide full coverage of comprehensive services in a geographic area that includes all the states and territories in at least one of the 10 ACF Regions directly through its own organization, or by partnering with other organizations through contracts, or both. (0-5 points)

Program Performance Evaluation Plan**Maximum Points: 10**

1. The applicant provides an efficient and effective plan for evaluation for the project as described in *Section I. Program Description, Program Requirements, Program Performance Evaluation Plan* and *Section IV.2., The Project Description, Program Performance Evaluation Plan*. The applicant describes an evaluation methodology that will assess whether the expected results and benefits are consistent with the proposed project's goals and objectives. (0-3 points)
2. The applicant proposes an effective and efficient plan for data collection. The description of the data collection tools to be used and the description of the data management system is thorough and adequately aligned with program activities. (0-2 points)
3. The plan to evaluate the success of the project and to measure the benefits to clients served is complete and appropriate. A detailed evaluation plan clearly describes the process for how the applicant plans to achieve its target numbers for the ORR performance indicators provided in *Section I. Program Description, Program Requirements, Program Performance Evaluation Plan*. (0-3 points)
4. The applicant provides a reasonable description of how ORR performance indicators will be used for continuous program improvement during the project period. (0-2 points)

Timeline**Maximum Points: 10**

1. The applicant presents a detailed timeline and uses it to discuss how the project will document progress toward project milestones in a manner that is thorough, reasonable, and adequate for the project's size and scope. (0-5 points)
2. The applicant's timeline clearly defines progress for each of the four program objectives and the corresponding ORR performance indicators referenced in *Section I. Program Description*. (0-5 points)

Budget**Maximum Points: 10**

1. The applicant's year-one budget is clear, logical, accurate, and reasonable. (0-5 points)
2. The budget narrative is clearly outlined and aligned with the project proposal and includes a detailed narrative justification for the amount requested that clearly states how the applicant derived categorical costs, and how each itemized expense will be used. (0-3 points)
3. Applicants who are current recipients of federal, state, or local financial assistance have clearly described how they will ensure that any awarded funds from this FOA will not be used to supplant any funding, as referenced in the program requirements for *Comprehensive Case Management Services* in *Section I. Program Description*. (0-2 points)

V.2. Review and Selection Process

No grant award will be made under this announcement on the basis of an incomplete application. No grant award will be made to an applicant or sub-recipient that does not have a DUNS number (www.dnb.com) and an active registration at SAM (www.sam.gov). See *Section III.3. Other*.

Initial ACF Screening

Each application will be screened to determine whether it meets any of the disqualification factors described in *Section III.3. Other, Application Disqualification Factors*.

Disqualified applications are considered to be "non-responsive" and are excluded from the competitive review process. Applicants will be notified of a disqualification determination by email or by USPS postal mail within 30 federal business days from the closing date of this funding opportunity announcement.

Objective Review and Results

Applications competing for financial assistance will be reviewed and evaluated by objective review panels using only the criteria described in *Section V.1. Criteria* of this announcement. Each panel is composed of experts with knowledge and experience in the area under review. Generally, review panels include three reviewers and one chairperson.

Results of the competitive objective review are taken into consideration by ACF in the selection of projects for funding; however, objective review scores and rankings are not binding. Scores and rankings are only one element used in the award decision-making process.

ACF may elect not to fund applicants with management or financial problems that would indicate an inability to successfully complete the proposed project. Applications may be funded in whole or in part. Successful applicants may be funded at an amount lower than that requested. ACF reserves the right to consider preferences to fund organizations serving emerging, unserved, or under-served populations, including those populations located in pockets of poverty. ACF will also consider the geographic distribution of federal funds in its award decisions.

ACF may refuse funding for projects with what it regards as unreasonably high start-up costs for facilities or equipment, or for projects with unreasonably high operating costs.

ORR Application Review

Because other important factors are taken into consideration, highly ranked applications are not guaranteed funding. Other considerations include whether the applicant has experience in identifying and assisting both sex and labor trafficking victims, providing tips to law enforcement, and providing training and technical assistance on human trafficking; the applicant's timely and successful completion of projects funded with ORR funds within the last 5 years; comments of reviewers and government officials; ORR staff evaluation and input; the amount of funds requested and the proposed project's consistency and compliance with ORR goals and policy; compliance with grant terms and conditions under previously awarded HHS grants; audit reports; investigative reports; and the applicant's progress in resolving any final audit or other disallowance on previous ORR or other federal agency grants.

ORR will conduct an initial threshold review of the applications to determine whether any application is disqualified under the criteria included in *Section III.3 Other, TVAP Program Requirements Disqualification Factor*. This initial review will be prior to the competitive process in which a grant review panel(s) will evaluate and score each application under the competitive review criteria. After ORR's initial review all qualified applications will be forwarded to the grant review panel(s) for the subsequent competitive review.

When assessing any proposed alternative approach prior to competitive review ORR will consider whether the alternative approach ensures timely referrals to all services for which the individual is eligible, is not burdensome to the client, and is operationally feasible for ACF. During the initial threshold inquiry, ORR may request and consider additional information to clarify any material received regarding an alternative approach to providing comprehensive case management. Any additional information that ORR receives during this stage would not be provided to the grant review panel(s) or otherwise considered during the subsequent competitive grant review.

The Director of ORR may give priority consideration for award to applications that demonstrate 3 or more years of experience in identifying and assisting foreign victims of sex trafficking and foreign victims of labor trafficking, including the provision of, or management and oversight of, case management services.

The Director of ORR may give priority consideration for award to applications from organizations with an established provider network for multiple states and the capacity to provide case management services in all states within one or more ACF Regions. (See <https://www.acf.hhs.gov/programs/orr> for a map of ACF

Regions.)

The Director of ORR may give priority consideration for award to organizations with infrastructure and experience providing benefits and services to refugees through a network of contractors because they are uniquely equipped with the capacity to provide case management in support of the path to self-sufficiency.

Please refer to *Section IV.2.* of this announcement for information on non-federal reviewers in the review process.

Approved but Unfunded Applications

Applications recommended for approval that were not funded under the competition because of the lack of available funds may be held over by ACF and reconsidered in a subsequent review cycle if a future competition under the program area is planned. These applications will be held over for a period of up to one year and will be re-competed for funding with all other competing applications in the next available review cycle. For those applications that have been deemed as approved but unfunded, notice will be given of such determination by postal mail.

V.3. Anticipated Announcement and Award Dates

Announcement of awards and the disposition of applications will be provided to applicants at a later date.

VI. Award Administration Information

VI.1. Award Notices

Successful applicants will be notified through the issuance of a Notice of Award (NoA) that sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-federal share to be provided (if applicable), and the total project period for which support is contemplated. The NoA will be signed by the Grants Officer and transmitted via postal mail, email, or by GrantSolutions.gov or the Head Start Enterprise System (HSES), whichever is relevant. Following the finalization of funding decisions, organizations whose applications will not be funded will be notified by letter signed by the cognizant Program Office head. Any other correspondence that announces to a Principal Investigator, or a Project Director, that an application was selected is not an authorization to begin performance.

Project costs that are incurred prior to the receipt of the NoA are at the recipient's risk and may be reimbursed only to the extent that they are considered allowable as approved pre-award costs. Information on allowable pre-award costs and the time period under which they may be incurred is available in *Section IV.5. Funding Restrictions*.

VI.2. Administrative and National Policy Requirements

Awards issued under this announcement are subject to 45 CFR Part 75 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards. The Code of Federal Regulations (CFR) is available at <http://www.gpo.gov>.

An application funded with the release of federal funds through a grant award does not constitute, or imply, compliance with federal regulations. Funded organizations are responsible for ensuring that their activities comply with all applicable federal regulations.

Prohibition Against Profit

Grantees are subject to the limitations set forth in 45 CFR § 75.215, Special provisions for awards to commercial organizations as recipients (45 CFR § 75.215(b) Prohibition against profit.), which states that, "...no HHS funds may be paid as profit to any recipient even if the recipient is a commercial organization. Profit is any amount in excess of allowable direct and indirect costs."

Equal Treatment for Faith-Based Organizations

Grantees are also subject to the requirements of 45 CFR § 87.1(c), Equal Treatment for Faith-Based Organizations, which says, "Organizations that receive direct financial assistance from the [Health and Human Services] Department under any Department program may not engage in inherently religious activities such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the Department." Therefore, organizations must take steps to completely separate the presentation of any program with religious content from the presentation of the Federally funded program by time or location *in such a way that it is clear that the two programs are separate and distinct.* If separating the two programs by time but presenting them in the same location, one program must *completely* end before the other program begins.

A faith-based organization receiving HHS funds retains its independence from federal, state, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs. For example, a faith-based organization may use space in its facilities to provide secular programs or services funded with federal funds without removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization that receives federal funds retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents in accordance with all program requirements, statutes, and other applicable requirements governing the conduct of HHS-funded activities.

Regulations pertaining to the Equal Treatment for Faith-Based Organizations, which includes the prohibition against federal funding of inherently religious activities, Understanding the Regulations Related to the Faith-Based and Neighborhood Partnerships Initiative" are available at <http://www.hhs.gov/partnerships/about/regulations/>. Additional information, resources, and tools for faith-based organizations is available through The Center for Faith-based and Neighborhood Partnerships website at <http://www.hhs.gov/partnerships/index.html> and at the <https://www.acf.hhs.gov/programs/ocs/resource/capacity-building-toolkits-for-faith-based-and-community-organizations>.

Award Term and Condition under the Trafficking Victims Protection Act of 2000

Awards issued under this announcement are subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104). For the full text of the award term, go to <http://www.acf.hhs.gov/grants/award-term-and-condition-for-trafficking-in-persons>. If you are unable to access this link, please contact the Grants Management Contact identified in *Section VII. Agency Contacts* of this announcement to obtain a copy of the term.

Requirements for Drug-Free Workplace

The Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106) requires that all organizations receiving grants from any federal agency agree to maintain a drug-free workplace. By signing the application, the Authorizing Official agrees that the grantee will provide a drug-free workplace and will comply with the requirement to notify ACF if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government-wide requirements for Drug-Free Workplace for Financial Assistance are found in 2 CFR Part 182; HHS implementing regulations are set forth in 2 CFR § 382.400. All recipients of ACF grant funds must comply with the requirements in Subpart B

- Requirements for Recipients Other Than Individuals, 2 CFR § 382.225. The rule is available at <http://www.gpo.gov/fdsys/pkg/CFR-2001-title45-vol1/content-detail.html>.

Debarment and Suspension

HHS regulations published in 2 CFR Part 376 implement the governmentwide debarment and suspension system guidance (2 CFR Part 180) for HHS' non-procurement programs and activities. "Non-procurement transactions" include, among other things, grants, cooperative agreements, scholarships, fellowships, and loans. ACF implements the HHS Debarment and Suspension regulations as a term and condition of award. Grantees may decide the method and frequency by which this determination is made and may check the Excluded Parties List System (EPLS) located at <https://www.sam.gov/>, although checking the EPLS is not required. More information is available at <https://www.acf.hhs.gov/grants-forms>.

Pro-Children Act

The Pro-Children Act of 2001, 20 U.S.C. §§ 7181 through 7184, imposes restrictions on smoking in facilities where federally funded children's services are provided. HHS grants are subject to these requirements only if they meet the Act's specified coverage. The Act specifies that smoking is prohibited in any indoor facility (owned, leased, or contracted for) used for the routine or regular provision of kindergarten, elementary, or secondary education or library services to children under the age of 18. In addition, smoking is prohibited in any indoor facility or portion of a facility (owned, leased, or contracted for) used for the routine or regular provision of federally funded health care, day care, or early childhood development, including Head Start services to children under the age of 18. The statutory prohibition also applies if such facilities are constructed, operated, or maintained with federal funds. The statute does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, portions of facilities used for inpatient drug or alcohol treatment, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 per violation and/or the imposition of an administrative compliance order on the responsible entity.

HHS Grants Policy Statement

The HHS Grants Policy Statement (HHS GPS) is the Department of Health and Human Services' single policy guide for discretionary grants and cooperative agreements. ACF grant awards are subject to the requirements of the HHS GPS, which covers basic grants processes, standard terms and conditions, and points of contact, as well as important agency-specific requirements. Appendices to the HHS GPS include a glossary of terms and a list of standard abbreviations for ease of reference. The general terms and conditions in the HHS GPS will apply as indicated unless there are statutory, regulatory, or award-specific requirements to the contrary that are specified in the Notice of Award (NOA). The HHS GPS is available at <https://www.acf.hhs.gov/grants/discretionary-competitive-grants>.

Freedom of Information Act (FOIA)

Applications funded by federal grant programs are subject to disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Such applications are frequently requested under the FOIA, consistent with the FOIA's requirement to proactively disclose frequently requested materials at 5 U.S.C. § 552(a)(2)(D). Each released application will receive appropriate redaction of specific information to protect personal privacy and competitively sensitive commercial information. Information on filing a FOIA request is available at <http://www.acf.hhs.gov/submit-a-foia-request>.

Award Term and Condition under Title VI of the Civil Rights Act of 1964

Recipients of federal financial assistance must not discriminate on the basis of race, color, national origin, disability, age, and in some cases sex and religion. The HHS Office for Civil Rights provides guidance to grantees in complying with civil rights laws that prohibit discrimination.

www.hhs.gov/ocr/civilrights/understanding/index.html.

HHS provides guidance to recipients of federal financial assistance on meeting the legal obligation to take reasonable steps to provide meaningful access to persons with limited English proficiency.

www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html. Recipients must ensure their contractors and sub-recipients also comply with federal civil rights laws.

Award Term and Condition for Unpaid Federal Tax Liability

Grantees are subject to the requirement contained in Section 744 of the “Consolidated and Further Continuing Appropriations Act, 2015,” (Pub.L. 113-235, Title VII, General Provisions – Government-Wide), which says “None of the funds made available by this or any other Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.”

Award Term and Condition for Federal Recognition of Same-Sex Spouses/Marriage

A standard term and condition of award will be included in the final Notice of Awards (NOA) that states: “In any grant-related activity in which family, marital, or household considerations are, by statute or regulation, relevant for purposes of determining beneficiary eligibility or participation, grantees must treat same-sex spouses, marriages, and households on the same terms as opposite-sex spouses, marriages, and households, respectively. By “same-sex spouses,” HHS means individuals of the same sex who have entered into marriages that are valid in the jurisdiction where performed, including any of the 50 states, the District of Columbia, or a U.S. territory or in a foreign country, regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. By “same-sex marriages,” HHS means marriage between two individuals validly entered into in the jurisdiction where performed, including any of the 50 states, the District of Columbia, or a U.S. territory or in a foreign country, regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex-marriage. By “marriage,” HHS does not mean registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage.”

VI.3. Reporting

Grantees under this funding opportunity announcement will be required to submit performance progress and financial reports periodically throughout the project period. The frequency of required reporting is listed later in this section.

Performance Progress Reports (PPR)

Notice of Award (NoA) documents will inform grantees of the appropriate performance progress report form or format to use. Grantees should consult their Notice of Award documents to determine the appropriate performance progress report format required under their award. Performance progress reports are due 30 days after the end of the reporting period. Final program performance reports are due 90 days

after the close of the project period.

For awards that implement the use of the ACF-OGM-SF-PPR, the form is available under "Reporting, Disclosures, and other Standard Forms" at <http://www.acf.hhs.gov/grants/forms#chapter-4>.

Federal Financial Reports (FFR)

ACF grantees are required to use the SF-425 Federal Financial Report (FFR) for expenditure reporting. SF-425 reports will be due as frequently as is required in the terms and conditions of their award using due dates from reports to PMS. The SF-269 is no longer accepted for expenditure reports. If an SF-269 is submitted, the ACF will return it and require the recipient to complete the SF-425.

All expenditure reports will be due on one of the standard due dates by which cash reporting is required to be submitted to PMS or at the end of a calendar quarter as determined by ACF. As a result, a recipient that receives awards from more than one federal program may be subject to more than one approach, but will not be required to change its current means of submission or be subjected to more than eight standard due dates. **A final cumulative SF-425 is due 90 days after the close of the project period.**

For budget periods ending in the months of:	The FFR (SF425) is due to ACF on:
January 01 - March 31	April 30
April 01 - June 30	July 30
July 01 - September 30	October 30
October 01 - December 31	January 30

The SF-425 form in Adobe PDF and MS-Excel formats, along with instructions, is available at <http://www.whitehouse.gov/omb/grants/forms>.

For planning purposes, ACF reporting periods for awards made under this announcement are as follows:

Performance Progress Reports:	Quarterly
Financial Reports:	Quarterly

Federal Financial Accountability and Transparency Act (FFATA) Subaward and Executive Compensation

Awards issued as a result of this funding opportunity may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR Part 170. See ACF's Award Term for Federal Financial Accountability and Transparency Act (FFATA) Subaward and Executive Compensation Reporting Requirement implementing this requirement and additional award applicability information at <https://www.acf.hhs.gov/grants/discretionary-competitive-grants>.

Tangible Property Report (SF-428)

All ACF grantees are required to submit the Tangible Personal Property Form (SF-428). The SF-428 is a standard form used to collect information related to tangible personal property: equipment with a unit cost of \$5,000 or more, and residual supplies with an aggregate fair market value exceeding \$5,000. The form consists of the cover sheet and three attachments to be used as required by the terms and conditions of the award: Annual Report; Final Report and a Disposition Request. A Supplemental Sheet, SF-428S, may be used to provide detailed individual item information. The form is available at <http://www.whitehouse.gov/omb/grants/forms>.

Real Property Status Report (SF-429)

All ACF grantees are required to submit the Real Property Status Report SF-429, if applicable. The SF-429 is a standard report to be used by recipients of federal financial assistance to report real property status or to request agency instructions on real property that is provided as Government Furnished Property (GFP) or acquired (i.e., purchased, constructed, or renovated) in whole or in part under a Notice of Award. This form consists of the cover sheet and three attachments to be used as frequently as required in the terms and conditions of the award: General reporting (SF-429A, Attachment A), Request to Acquire, Improve or Furnish (SF-429B, Attachment B), or Disposition or Encumbrance Request (SF-429C, Attachment C). The forms are available at <http://www.whitehouse.gov/omb/grants/forms>.

VII. Agency Contacts

Program Office Contact

Bridget Miller
Administration for Children and Families
Office of Refugee Resettlement
Division of Anti-Trafficking in Persons
370 L'Enfant Promenade SW
8th Floor West
Washington, DC 20447
Phone: (202) 205-5901
Phone 2: (202) 401-5510
Fax: (202) 401-5487
Email: Bridget.Miller@acf.hhs.gov

Office of Grants Management Contact

William Kim
Administration for Children and Families
Office of Grants Management
Division of Discretionary Grants
370 L'Enfant Promenade SW
6th Floor East
Washington, DC 20447
Phone: (202) 401-5513
Phone 2: (202) 401-5548
Email: acfogme-grants@acf.hhs.gov

Federal Relay Service:

Hearing-impaired and speech-impaired callers may contact the Federal Relay Service for assistance at 1-800-877-8339 (TTY - Text Telephone or ASCII - American Standard Code For Information Interchange).

VIII. Other Information

Reference Websites

U.S. Department of Health and Human Services (HHS) <http://www.hhs.gov/>.

HHS Grants Forecast <http://www.acf.hhs.gov/hsgsgrantsforecast/index.cfm>.

Administration for Children and Families (ACF) <http://www.acf.hhs.gov/>.

ACF Grants Homepage <https://www.acf.hhs.gov/grants>.

ACF Funding Opportunities <http://www.acf.hhs.gov/grants/open/foa/>.

ACF "How to Apply for a Grant" <https://www.acf.hhs.gov/grants/how-to-apply-for-grants>.

Catalog of Federal Domestic Assistance (CFDA) <https://www.cfda.gov/>.

For submission of a paper format application, all required Standard Forms (SF), assurances, and certifications are available on the ACF Grants-Forms page through <https://www.acf.hhs.gov/grants-forms>.

Standard grant forms are available at the [Grants.gov Forms Repository webpage at http://www.grants.gov/web/grants/forms/sf-424-family.html](http://www.grants.gov/web/grants/forms/sf-424-family.html).

For information regarding accessibility issues, visit the Grants.gov Accessibility Compliance Page at <http://www07.grants.gov/web/grants/support/technical-support/accessibility-compliance.html>.

Code of Federal Regulations (CFR) <http://www.gpo.gov/fdsys/>.

The *Federal Register* <https://www.federalregister.gov/>.

United States Code (U.S.C.) <http://www.gpo.gov/fdsys/>.

Application Checklist

What to Submit	Where Found	When to Submit
Letter of Intent	Referenced in <i>Section IV.2. Project Description</i> .	Submission is due by the Letter of Intent due date found in the <i>Overview</i> and in <i>Section IV.3.</i>
Table of Contents	Referenced in <i>Section IV.2. The Project Description</i> .	Submit with the application by the due date found in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i> .

The Project Budget and Budget Justification	Referenced in <i>Section IV.2. The Project Budget and Budget Justification</i> of the announcement.	Submission is required in addition to submission of SF-424A or SF-424C. It must be submitted with the application package by the due date in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i> .
Proof of Non-Profit Status	Referenced in <i>Section IV.2. The Project Description, Legal Status of Applicant Entity</i> .	Proof of non-profit status should be submitted with the application package by the due date listed in the <i>Overview</i> and <i>Section IV.3. Submission Dates and Times</i> . If it is not available at the time of application submission, it must be submitted prior to the award of a grant.
Project Summary/Abstract	Referenced in <i>Section IV.2. The Project Description</i> . The Project Summary/Abstract is limited to one single-spaced page.	Submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i> .
Letters of Support	Referenced in <i>Section IV.2. The Project Description</i> .	Submission is due by the application due date listed in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i> .
SF-424A - Budget Information - Non-Construction Programs and SF-424B - Assurances - Non- Construction Programs	Referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications</i> . For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory." Also available at http://www.grants.gov/web/grants/forms.html by using the link to "SF-424 Family." These forms are <i>required</i> for applications under this FOA: <ul style="list-style-type: none">• Projects that include only non-construction activities	Submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i> .

	must submit the SF-424A and SF-424B, along with the SF-424 and SF-P/PSL.	
Third-Party Agreements (also, MOUs and Consortia Agreements)	Referenced in <i>Section IV.2. Project Description.</i>	If available, submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i> . If not available at the time of application submission, due by the time of award.
SF-424 - Application for Federal Assistance	<p>Referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications.</i></p> <p>For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory."</p> <p>Also available at http://www.grants.gov/web/grants/forms.html</p> <p>by using the link to "SF-424 Family."</p>	<p>Submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i>.</p> <p>Do not attach required application elements or additional pages to the SF-424 at Questions 14 or 15! See Section IV.2. Formatting ACF Applications.</p>
The Project Description	Referenced in <i>Section IV.2. The Project Description.</i>	Submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i> .
Training Certification	Referenced in the Rescue & Restore Training Certification in <i>Section IV.2 Required Forms, Assurances, and Certifications.</i>	Submission due by the application due date.
SF-424 Key Contact Form	<p>Referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications.</i></p> <p>For electronic application submission, this form is available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download</p>	Submission is due with the application by the application due date found in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times</i> .

	<p>"Application Package" in the section entitled, "Optional."</p> <p>The form is also available at http://www.grants.gov/web/grants/forms.html</p> <p>by using the link to "SF-424 Family."</p>	
DUNS Number (Universal Identifier) and Systems for Award Management (SAM) registration.	<p>Referenced in <i>Section III.3. Other</i> in the announcement.</p> <p>To obtain a DUNS number, go to http://fedgov.dnb.com/websform.</p> <p>To register at SAM, go to http://www.sam.gov.</p>	<p>A DUNS number and registration at SAM.gov are required for all applicants.</p> <p>Active registration at SAM must be maintained throughout the application and project award period.</p>
Certification Regarding Lobbying (Grants.gov Lobbying Form)	<p>Referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications</i>.</p> <p>For electronic application submission, these forms are available on the FOA's Grants.gov page under the "Application Package" tab in the section entitled, "Mandatory."</p> <p>Available at http://www.grants.gov/web/grants/forms.html</p> <p>by using the link to "SF-424 Family."</p>	<p>Submission is due with the application package. If it is not submitted with the application package, it must be submitted prior to the award of a grant.</p>
SFLLL - Disclosure of Lobbying Activities	<p>"Disclosure Form to Report Lobbying" is referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications</i>.</p> <p>For electronic application submission, this form is available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Optional."</p>	<p>If submission of this form is applicable, it is due at the time of application.</p> <p>If it not available at the time of application, it may also be submitted prior to the award of a grant.</p>

The form is available in the electronic application kit at Grants.gov
and at <http://www.grants.gov/web/grants/forms.html> by using the link to "SF-424 Family."

If applicable, submission of this form is required if any funds have been paid, or will be paid, to any person for influencing, or attempting to influence, an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan.

Resumes	Referenced in <i>Section IV.2. The Project Description.</i>	Submission due by the application due date found in <i>Overview</i> and <i>Section IV.3.</i>
SF-Project/Performance Site Location(s) (SF-P/PSL)	<p>Referenced in <i>Section IV.2. Required Forms, Assurances, and Certifications.</i></p> <p>For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory."</p> <p>Also available at http://www.grants.gov/web/grants/forms.html by using the link to "SF-424 Family."</p>	Submission is due by the application due date found in the <i>Overview</i> and in <i>Section IV.3. Submission Dates and Times.</i>

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

-----+
AMERICAN CIVIL LIBERTIES
UNION OF NORTHERN
CALIFORNIA,

Plaintiff, | Case Number:
vs. | 3:16-cv-3539-LB

ERIC G. HARGAN, Acting
Secretary of Health and
Human Services, et al,

Defendants,

U.S. CONFERENCE OF
CATHOLIC BISHOPS,

Defendant-Intervenor.

-----+
Rule 30(b)(6) Videotaped Deposition of
The Department of Health and Human Services,
by and through its designated representative,

KATHERINE CHON

Washington, D.C.

Tuesday, December 19, 2017 - 9:24 a.m.

Reported by:

Laurie Donovan, RPR, CRR, CSR

Job no: 20318

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Page 4

1 Rule 30(b)(6) Videotaped Deposition of
 2 The Department of Health and Human Services,
 3 by and through its designated representative,
 4 KATHERINE CHON

5 Held at the offices of:

6 U.S. Department of Justice
 7 20 Massachusetts Avenue, N.W.
 8 Room 6139
 9 Washington, D.C. 20001
 10 (202)353-4556

11 Taken pursuant to notice, before
 12 Laurie Donovan, Registered Professional
 13 Reporter, Certified Realtime Reporter, and
 14 Notary public in and for the District of
 15 Columbia.

1 (Appearances continued)
 2 ON BEHALF OF OFFICIAL CAPACITY FEDERAL DEFENDANTS
 3 ERIC G. HARGAN AND DEPARTMENT OF HEALTH AND HUMAN
 4 SERVICES:

5 U.S. Department of Justice
 6 20 Massachusetts Avenue, N.W.
 7 Room 6139
 8 Washington, D.C. 20001
 9 (202)353-4556
 10 By: Martin M. Tomlinson, Esq.
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 12 Peter J. Phipps, Esq.
 13 peter.phipps@usdoj.gov

14 ALSO PRESENT:

15 Martin Sherrill, Videographer
 16 Llewellyn Woolford, Esq. (HHS)
 17 Caitlin Palacios, Esq. (HHS)
 18 Jeffrey Hunter Moon, Esq. (USCCB)
 19 Rachel Chrisinger, paralegal

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Page 5

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11			11	TransPerfect, and I'm the legal video	
12			12	specialist. The court reporter today is	
13			13	Laurie Donovan in association with	
14			14	TransPerfect.	
15			15	Would counsel please introduce	
16			16	themselves.	
17			17	MS. BURROWS: Meagan Burrows for	
18			18	the plaintiff.	
19			19	MS. AMIRI: Brigitte Amiri for the	
20			20	plaintiff.	
21			21	MR. NOWICKI: Daniel Nowicki for	
22			22	defendant-intervenor USCCB.	
23			23	MR. MOON: Jeffrey Moon with the	
24			24	defendant-intervenor.	
25			25	MR. TOMLINSON: Martin Tomlinson	

3 (Pages 6 to 9)

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Page 12

1 for the official capacity federal defendants.

2 MR. PHIPPS: Peter Phipps for the
3 official capacity federal defendants.

4 MR. WOOLFORD: Llewellyn Woolford
5 for defendant US Department of Health and
6 Human Services.

7 MS. PALACIOS: Caitlin Palacios for
8 the defendant US Department of Health and
9 Human Services.

10 MS. CHRISINGER: Rachel Chrisinger,
11 paralegal with the Department of Justice.

12 THE VIDEOGRAPHER: Would the court
13 reporter please swear in the witness.

14 KATHERINE CHON,
15 having been first duly sworn, testified
16 upon her oath as follows:

17 EXAMINATION BY COUNSEL FOR PLAINTIFF
18 BY MS. BURROWS:

19 Q Okay. My name is Meagan Burrows, and
20 I'm one of the attorneys representing the
21 plaintiff ACLU of Northern California in this
22 case. I'm just going to go over a few preliminary
23 deposition tips and tricks and points before we
24 get into the substance.

25 Okay?

1 A Okay.

2 Q If you could please state your full name
3 for the record.

4 A My name is Katherine Chon.

5 Q And your testimony will be taken by the
6 court reporter, who will record everything we say,
7 so I'm going to ask that we both be careful not to
8 talk over each other. I'll ask a question. If
9 you could let me finish the question before you
10 give your answer, that would be great, and I will
11 let you finish your answer before asking another
12 question.

13 Okay?

14 A Okay.

15 Q You will need to give oral responses so
16 that the court reporter can take them down, so
17 please answer out loud.

18 Okay?

19 A Okay.

20 Q And if your attorney objects to a
21 question that I ask, unless he instructs you not
22 to answer, please go ahead and answer the
23 question.

24 If you -- if I ask you a question and
25 you don't understand the question, please let me

1 know, and I'll be happy to rephrase it, but if you
2 do answer, I will assume that you understood the
3 question.

4 Okay?

5 A Okay.

6 Q And if at any time other than when a
7 question that I've asked is pending, you feel like
8 you need to take a break, just let me know, and
9 we'll be happy to go off the record for a few
10 minutes and take a break.

11 Okay?

12 A Okay.

13 Q Do you understand that you are under
14 oath?

15 A Yes.

16 Q And are you taking any medications or
17 anything today that would affect your ability to
18 think and speak clearly?

19 A No.

20 Q Throughout the deposition I'll be
21 referring to a number of government offices and
22 agencies, and I may refer to them by their full
23 name, but likely I will refer to them by their
24 initials. So, for example, for the Department of
25 Health and Human Services, I'll refer to them as

Page 11

Page 13

1 "HHS."

2 Will you understand what I mean if I do
3 that?

4 A Yes.

5 Q Okay, great.

6 So do you understand that you are
7 appearing here today as a designated
8 representative of the US Department of Health and
9 Human Services or HHS?

10 A Yes.

11 MS. BURROWS: I'm going to mark as
12 an exhibit the Plaintiff's 30(b)(6)
13 deposition notice for HHS, ACF and ORR.

14 (Discussion was held off the
15 record.)

16 (Exhibit 1 was marked for
17 identification.)

18 BY MS. BURROWS:

19 Q So I've put before you here a document
20 that's now marked Exhibit 1, as I said,
21 plaintiff's 30(b)(6) notice for HHS, ACF and ORR,
22 bearing the caption from this case, American Civil
23 Liberties Union of Northern California versus Eric

24 D. Hargan.

25 Have you seen this document before?

4 (Pages 10 to 13)

Page 30

Page 32

1 Q Who was responsible for that?
 2 A At the time it was -- for the TVAP

3 program --

4 Q Yes.

5 A -- are you asking?

6 Q Yes.

7 A And the one that was awarded in 2015?

8 Q Yes.

9 A Okay.

10 At that time the ORR director was
 11 responsible for the final award decision, along
 12 with me as the director of the Office on
 13 Trafficking in Persons.

14 Q Great, and we'll get back to more of
 15 that, more of the 2015 grant later.

16 A And I think you asked earlier about when
 17 Maggie left her position.

18 Q Yes.

19 A It could be end of March, early April.
 20 I just -- I don't know the specific dates, but it
 21 was prior to the deputy director starting.

22 Q Prior to Carolyn Hightower starting?

23 A Yes.

24 Q Okay, great.

25 So just to back us up again a little

1 an ATIP, but it merged into OTIP when OTIP was
 2 founded.

3 So how does OTIP relate to ORR in terms
 4 of administrating the grants that ORR provides to
 5 grantees to provide care for unaccompanied
 6 immigrant minors?

7 A So we are not responsible for any of the
 8 grants that ORR awards for the care of
 9 unaccompanied minors. We work with the
 10 unaccompanied minor program within the scope of
 11 our responsibilities to review requests for
 12 assistance for certain foreign victims of
 13 trafficking.

14 So when it comes to foreign minor
 15 victims of trafficking who may have or who have
 16 experienced human trafficking, ORR staff or ORR
 17 grantees may refer those cases to us through a
 18 formal request for assistance process, and then we
 19 review those cases and determine whether a minor
 20 may have or has experienced human trafficking, and
 21 if they have, then we issue either an interim
 22 assistance letter, an eligibility letter so that
 23 they could be eligible for benefits and services
 24 to the same extent as refugees.

25 Q So now I'd like to talk a little bit

Page 31

Page 33

1 bit, because we got a little far afield, what is
 2 the role of OTIP within HHS, just broadly?

3 A The role of OTIP is to implement our
 4 congressional authorities on victim protection and
 5 prevention and other anti-trafficking programs.
 6 So we execute that through grants, through
 7 contracts, and through some of our own direct
 8 responsibilities to review requests for
 9 assistance.

10 Q And what is the relationship between
 11 OTIP, HHS, ACF and ORR, if you can kind of paint
 12 me a, paint me a picture of how those, how those
 13 organizations interact?

14 A So currently the Office on Trafficking
 15 in Persons, we sit within the immediate office of
 16 the assistant secretary in the organizational
 17 structure, so we're part of the assistant
 18 secretary's office.

19 Q Okay.

20 A And ORR is a sister program office
 21 within ACF, and then ACF sits within HHS.

22 Q And is there any relationship between
 23 OTIP and ORR's unaccompanied immigrant minors
 24 grantees of, of the grants that ORR provides? I
 25 think we already discussed that there used to be

1 about OTIP's role in awarding and administering
 2 grants through the Trafficking Victims Assistance
 3 Program. We'll start at a very macro level, and
 4 then we can kind of narrow it.

5 So my first question is: What is the
 6 Trafficking Victim Assistance Program?

7 A In its current form?

8 Q In its current form, yes.

9 A So the Trafficking Victim Assistance
 10 Program is a grant program with the purpose of
 11 providing comprehensive victim services for
 12 foreign victims of trafficking who have received
 13 certification or are in positions of seeking
 14 certification from HHS.

15 And these are time-limited funds, and
 16 depending on the grantee, each grantee structures
 17 in different ways, but a victim of trafficking
 18 would receive case management support in addition
 19 to funding to meet direct service needs, including
 20 basic needs. And the grant is providing
 21 assistance to victims of trafficking and certain
 22 eligible family members.

23 Q And so OTIP would award the grant to
 24 applicant organizations to apply seeking the
 25 grant, and then do they administer the grant

9 (Pages 30 to 33)

1 through subgrantees?

2 MR. TOMLINSON: Object to the form.

3 BY MS. BURROWS:

4 Q I can rephrase.

5 Does OTIP award a grant to a grant
6 applicant who administers the grant through
7 subgrantees?

8 A In the current grant that's in
9 implementation, OTIP has awarded grants to
10 grants -- or to organization where each of those
11 three grantees have their own structure of how
12 they deliver services, but those structures in
13 each of those grantees includes a network of
14 service providers.

15 Q And you said "in its current form."
16 How, if at all, was it different in 2015?

17 A In 2015 meaning the, prior to -- so the
18 previous grant award?

19 Q Yes. Well, in your answer you
20 indicated -- and this could just be me picking up
21 on certain language where there is nothing there,
22 but that the current TVAP program may have been
23 different from prior iterations of the program.
24 So if you could tell me a little bit more about
25 how, if at all, the current program right now is

1 in 2015?

2 Q For any anti-trafficking grant. We'll
3 get to the 2015 award in a bit.

4 MR. TOMLINSON: Same objection as
5 last time, that she's been prepared to talk
6 about the current funding opportunity for the
7 TVAP grant, so in her 30(b)(6) capacity,
8 that's, that's what she can talk about.

9 But if you, if you know . . .

10 THE WITNESS: So our role was a
11 little bit different in the 2015, this grant
12 program that was awarded in 2015, than it is
13 currently, so --

14 BY MS. BURROWS:

15 Q Okay. We'll go back now.

16 A Okay.

17 Q Makes sense. Let's talk about -- let's
18 talk about the 2015 one then, if you could walk me
19 through kind of the process for, you know, from
20 the very beginning through to the award, just at a
21 very macro level, and we'll get into the specifics
22 afterwards.

23 A Okay.

24 So for this, for the grant -- for the
25 Funding Opportunity Announcement that's related to

1 different and when it was changed, that would be
2 great.

3 MR. TOMLINSON: I am going to
4 object, because we, I think as we've served
5 notice in our objections, we prepared her to
6 talk about the current funding opportunity,
7 so, you know, obviously to the extent she
8 knows, she can talk about it, but I don't
9 think she's doing so in her 30(b)(6)
10 capacity.

11 BY MS. BURROWS:

12 Q Okay.

13 A If the question is specific to the
14 network of sub-recipients, the current grant
15 program and the previous grant cohort operated in
16 the same way where there was a primary grantee and
17 sub-recipients.

18 Q And what is OTIP's role in awarding the
19 TVAP grant, if you could kind of walk through the,
20 walk me through the stages of, you know, the
21 creation of a Funding Opportunity Announcement,
22 assuming that is something that OTIP does, through
23 to the award.

24 A So is this for any anti-trafficking
25 grant or for this particular award that was made

1 this grant award that was made in 2015 for the
2 TVAP program, OTIP did not have as much of a role
3 in the earlier phases of formulating the Funding
4 Opportunity Announcement. The FOA, Funding
5 Opportunity Announcement, was released by the
6 Office of Refugee Resettlement, and that was in
7 early 2015. OTIP was not established until June
8 of 2015, and my understanding is that the FOA was
9 initially released to the public, and then an
10 updated version of the Funding Opportunity
11 Announcement was subsequently released afterwards.

12 And the Office of Refugee Resettlement
13 was responsible for anything that happened post
14 release of the Funding Opportunity Announcement
15 and up to the later stages of the pre-awards
16 phase, and this was a year when the -- when OTIP
17 was getting established, and so we didn't have
18 access to the GrantSolutions, which is the
19 technology platform where grants are managed.

20 And so during that period of time when
21 the applications came in, former ORR staff who are
22 now with OTIP were involved in the grant review
23 process, and my role in the process came in during
24 the pre-award phase, roughly during the month of
25 September 2015.

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1 Q And I believe you previously
 2 indicated -- you can correct me if I'm wrong --
 3 that Maggie Wynne was involved in creating the
 4 Funding Opportunity Announcement in 2015?

5 A At that time she was with the Office of
 6 Refugee Resettlement, and I don't know who were
 7 all -- who helped inform the first version of the
 8 Funding Opportunity Announcement.

9 Q Yes, and you said there was a first
 10 version and then an updated version. Do you know
 11 the distinctions between the two?

12 A The updated version was in response to
 13 stakeholders who wrote in to ACF with concerns
 14 that the original Funding Opportunity Announcement
 15 did not reference the ability for family member
 16 "derivatives," as a technical term, certain family
 17 members to be eligible for funding under the
 18 Funding Opportunity Announcement, and so in
 19 response to that, the Agency issued an updated
 20 Funding Opportunity Announcement so that family
 21 members would be eligible.

22 And then there were some other changes
 23 in, in regard to conditions in which a victim of
 24 trafficking may not necessarily be able to
 25 cooperate with law enforcement under, if they were

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1 under psychological duress or there were
 2 logistical constraints that prevented them from
 3 doing so. So it mostly looked at those
 4 eligibility -- addressed those eligibility
 5 factors.

6 Q And apart from those eligibility
 7 factors, there were no other changes?

8 A That's correct.

9 Q Great, and I believe you already
 10 mentioned this already in, in a prior answer, but
 11 are you familiar with the Trafficking Victims
 12 Protection Act as reauthorized in 2008 as the
 13 William Wilberforce Trafficking Victim Protection
 14 Reauthorization Act?

15 A Yes.

16 Q And what is your understanding of what
 17 I'll refer to as just the TVPA, so this Act,
 18 requires HHS to provide trafficking survivors in
 19 terms of medical services?

20 A I don't -- I would need to look at the
 21 specific statutory language. There are a number
 22 of changes that were made to anti-trafficking-
 23 related statutes under that Act.

24 Q Do you -- we might be able to get that
 25 later, but I don't have it with me right now. Do

Page 40

1 you -- is it your understanding that such medical
 2 services would include access to contraception?

3 A I would need to look at the authorizing
 4 language.

5 Q Okay. Generally, is it -- pursuant to
 6 the Trafficking Victims Protection Act, is it
 7 HHS's mission to ensure that trafficking survivors
 8 become self-sufficient?

9 A Self-sufficiency is one of the goals
 10 outlined in the Funding Opportunity Announcement.

11 Q And is it your understanding that the
 12 provision of medical services helps survivors to
 13 become self-sufficient?

14 A It would depend on each individual case
 15 and what the individual needed, so it could be.

16 Q So if --

17 A It's dependent.

18 Q In a case where the provision of certain
 19 medical care would help a trafficking survivor
 20 let's say get a job or obtain education or
 21 maintain a job or just be healthy enough to
 22 participate in everyday life and in a workforce,
 23 would that fall within the goal -- would providing
 24 that care fall within the mission of assisting the
 25 survivor in achieving self-sufficiency?

Page 41

1 MR. TOMLINSON: Object to the form
 2 and calls for speculation.

3 THE WITNESS: Again, it depends on
 4 the individual needs, but health and medical
 5 services could be a factor that contributes
 6 to self-sufficiency.

7 BY MS. BURROWS:

8 Q We'll come back to that in a bit.

9 Are you familiar with the 2012 case,
 10 American Civil Liberties Union of Massachusetts v.
 11 Sebelius?

12 A Yes.

13 Q How did you become familiar with that
 14 case?

15 A I became familiar with the case in the
 16 context of ACF establishing its policy on grants
 17 to faith-based organizations. I don't know if
 18 that's the official title, but something related
 19 to that topic. When it was released, we were
 20 informed that that would be the guiding document
 21 for the purposes of implementing ACF grant
 22 programs, and my sense was that it happened right
 23 around the time of that lawsuit.

24 Q And so were you party to conversations
 25 within HHS about what type of guidance that this

11 (Pages 38 to 41)

1 case provided?

2 A No, I was not.

3 Q Did you have conversations with anyone
4 about how the case, if at all, might impact
5 funding, Funding Opportunity Announcements or the
6 distribution of grants to TVAP grant applicants?

7 A Can you repeat that question?

8 Q Sure.

9 Did you have conversations with anyone
10 within HHS about how the case -- that case, ACLU
11 of Massachusetts v. Sebelius -- would impact
12 decisions made within OTIP as to who to award TVAP
13 grants to?

14 A No.

15 Q And you said that you only started as
16 director in 2015, and in your prior role, were
17 you -- you were not involved in decisions
18 regarding the 2012 grant award, were you?

19 A No, I was not.

20 MS. BURROWS: All right. So now
21 we're going to get into some more specifics
22 about the 2015 award. I'm going to mark this
23 as Exhibit 2.

24 (Exhibit 2 was marked for
25 identification.)

1 including providing access to medical care,
2 "including treatment for sexually transmitted
3 infections, family planning services, and the full
4 range of legally permissible gynecological and
5 obstetric care, including but not limited to
6 exams, prenatal services, and nondirective
7 health-related counseling."

8 In that language when it says "family
9 planning services and the full range of legally
10 permissible gynecological and obstetric care," did
11 HHS interpret that language to include access to
12 contraception?

13 A Yes.

14 Q And to include access to abortion?

15 A Yes, with a -- no. Well, yes and no.
16 There is some other aspect of the Funding
17 Opportunity Announcement that lists out
18 restrictions in funding that essentially cites the
19 Hyde Amendment.

20 Q That would be funding -- restrictions in
21 funding for abortions --

22 A Mm-hmm.

23 Q -- and provision of federal funding for
24 abortions in certain cases?

25 A Exactly.

1 BY MS. BURROWS:

2 Q This is the ACF/ORR Trafficking Victim
3 Assistance Program Funding Opportunity
4 Announcement for 2015.

5 Have you seen this document before?

6 A Yes, I have.

7 Q And is this the 2015 Funding Opportunity
8 Announcement for the TVAP program?

9 A This is the modified announcement.

10 Q And as you said, the -- before the
11 change, the prior version, unmodified version, I
12 guess, or original version had some language
13 regarding eligibility that was updated in this
14 version, but apart from those eligibility updates,
15 there were no other changes?

16 A That's correct.

17 So page 1, in bold, under the summary,
18 it gives a summary of what the changes were in
19 regard to eligibility.

20 Q Great.

21 So if you could turn your attention to
22 page 2 of 49, the Funding Opportunity Announcement
23 says that it's, you know, seeking to fund
24 organizations to provide, quote, "comprehensive
25 case management" to trafficking survivors,

1 Q But not restrictions on abortion care,
2 the provision of abortion care, more broadly, you
3 know, assuming that federal funds were not being
4 requested?

5 A That is my understanding.

6 Q And if you could turn your attention to
7 page 5 of 49 where the FOA specifically addresses
8 faith-based organizations and states -- I'll let
9 you read the language, and then I'll ask some
10 questions.

11 A The -- in terms of just adding to my
12 previous response --

13 Q Sure.

14 A -- the FOA outlines "legally
15 permissible," so as long as it's within that
16 realm, my answer stands.

17 Q Perfect. Thank you.

18 So it says here, "If an organization has
19 a religious objection to providing any of the
20 services or referrals required in the program, it
21 may propose an approach to meeting its grant
22 obligations consistent with ACF's faith-based
23 policy. The alternative approach must be one that
24 accomplishes the goal of ensuring that trafficking
25 victims understand the full range of services

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1 mechanism for ensuring that these referrals will
 2 be made or describing how such referrals would be
 3 made?

4 MR. TOMLINSON: Object to the form.

5 THE WITNESS: Can you repeat?

6 BY MS. BURROWS:

7 Q Sure.

8 At the time did USCCB propose a
 9 mechanism for ensuring that the referrals to
 10 subgrantees or other grantees that did not have
 11 religious objections to providing abortion or
 12 contraception would be made?

13 A For health services?

14 Q Yes.

15 A So the, in their -- my understanding
 16 through their proposal is that each client would
 17 receive a brochure outlining the full range of
 18 services that they are eligible for, and that they
 19 would be connected with a healthcare provider, and
 20 then they would take on any health-specific
 21 matters with their healthcare provider.

22 Q And in the event that a TVAP
 23 beneficiary, a trafficking survivor, met with
 24 their healthcare provider and requested access --
 25 requested contraception or requested access to

1 to funding needs through the course of the budget
 2 period.

3 Q So funds would be reallocated in order
 4 to accommodate --

5 A Yes.

6 Q Was there any concern about such
 7 referrals to other subgrantees, in terms of their
 8 geographical location, from the subgrantees with
 9 religious objections where the trafficking
 10 survivors would be requesting abortion or
 11 contraception where physically located?

12 A There weren't concerns at the time,
 13 because the TVAP program is a national grant
 14 program, and the number of organizations in the
 15 subrecipient network across the three program
 16 grantees, it's greater than -- it's more than 120
 17 organizations across the country, and if for some
 18 reason there wasn't an already-enrolled
 19 subrecipient but another organization was
 20 identified as being able to meet the victim's
 21 needs or the survivor's needs, they could enroll
 22 as a subrecipient to a primary grantee at any
 23 time.

24 Q Is there any delay between when a
 25 subgrantee would, you know, be requesting

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1 abortion, what would happen then? What was your
 2 understanding of what would happen then under
 3 USCCB's proposed alternative approach?

4 A My understanding is that it would depend
 5 on the individual clients whether they disclose to
 6 USCCB or not. We wouldn't have that information,
 7 but if USCCB had information that a beneficiary
 8 was asking for services that USCCB was unable to
 9 provide, that they would let us know.

10 Q And then what would be the steps that
 11 you would take upon receiving that information?

12 A We would reach out to other, other
 13 primary grantees or sub-recipients in the local
 14 network and refer those clients' needs to another
 15 grantee or subrecipient.

16 Q And in contemplating that as a
 17 possibility, was there any concern that the other
 18 grantees or subrecipients to which you would be
 19 referring the individuals who were requesting
 20 abortion or contraception might not have the
 21 capacity to take on additional trafficking
 22 survivors?

23 A That was not a concern at the time,
 24 because capacity is often tied to the funding, and
 25 we're in close touch with our grantees in regard

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1 enrollment or you would be soliciting their
 2 enrollment to fill a capacity gap and when they
 3 would actually be confirmed to be enrolled in
 4 April to provide services?

5 A I am not familiar with the enrollment
 6 time period, but our -- when we were thinking
 7 through what we would do in these situations, our
 8 first step would be to work with grantees or
 9 subrecipients already enrolled in the program.

10 Q But in the event, let's say -- let me
 11 strike that. I'll start with a more basic
 12 question.

13 There are -- are there some states where
 14 only USCCB's grantees provide services?

15 A No.

16 Q No?

17 A There are not.

18 Q So in every -- just to ask my question
 19 in a different way, in every state, in addition
 20 to -- in every state where USCCB is providing
 21 services through a subgrantee, there would also be
 22 another grantee, a TVAP grantee providing services
 23 through its subgrantees in that state as well?

24 A There could be within the subrecipient
 25 network, so the way this was structured is that

15 (Pages 54 to 57)

1 each primary grantee takes responsibility for
2 regional coverage.

3 So in the case of USCCB, they were
4 taking responsibility for Region 3 and 6 to make
5 sure that at least those states were covered, and
6 then the other regions were divided between the
7 other two primary grantees, but the way the
8 subrecipient relationship works is that any
9 subrecipient in any community can choose which
10 primary grantee to enroll with, regardless of the
11 geographic location.

12 So it provides more choice for a
13 subrecipient organization to determine which
14 primary grantee relationship it would want to
15 have.

16 Q So the subrecipient can choose -- let's
17 say it was originally with Tapestry, for example.
18 It could choose to switch to USCCB if it wanted
19 to?

20 A Technically under this Funding
21 Opportunity Announcement, it could, as long as
22 they are not subrecipients -- they can't be
23 subrecipients to more than one primary TVAP
24 grantee at a time.

25 Q But in the event -- so just to clarify

1 Q I can clarify. It was a much more
2 complicated question that I asked than I meant it.

3 A Okay.

4 Q You had an email, a series of email
5 exchanges in addition to other conversations with
6 USCCB about their TVAP application grant between
7 when they applied and when the grant was awarded,
8 correct?

9 A Yes, that's correct.

10 MS. BURROWS: So I'm going to mark
11 this as Exhibit 4.

12 (Exhibit 4 was marked for
13 identification.)

14 BY MS. BURROWS:

15 Q So this -- I'll give you a chance to
16 look at it, too, before we get into questions --
17 is an email exchange bearing Bates USCCB 527 to
18 534, and then it skips a little bit and it goes
19 from 537 to 540, and looks like an email exchange,
20 and in there also is a letter, between a number of
21 people, and you were also included on a few of
22 these emails as well; a number of people in ACF,
23 including [REDACTED] who you previously
24 mentioned, and Maggie Wynne, and a number of
25 people at USCCB, including [REDACTED] and [REDACTED]

1 my prior question, is there any states where
2 currently, you know, absent, you know, this option
3 to switch, USCCB and its grantees are the only --
4 or its subgrantees are the only recipients of TVAP
5 grant funds providing services to trafficking
6 victims in that state?

7 A I don't know for sure in terms of
8 specific states, but organizations in any state
9 could, are, are -- there are situations currently
10 where an organization, for example, in Regions 3
11 and 6 covered by USCCB, could be or are enrolled
12 as a subrecipient with another TVAP grantee. I
13 just can't tell you right now for sure which,
14 where the states -- if there are any states where
15 it's just USCCB's subrecipients.

16 Q But is that a possibility?

17 A It's a possibility.

18 Q So you mentioned before -- and now we'll
19 get into this -- that you had a series of email
20 exchanges with USCCB regarding their application
21 and their program documents between when they
22 submitted, you know, the draft that we just looked
23 at in September and between when the award was
24 issued, correct?

25 A Correct. The -- can you restate that.

1 [REDACTED] correct?

2 A Correct.

3 Q If we turn toward the end, Bates 539 to
4 540, this is a September 10 email where you
5 sent -- it appears that you sent questions to
6 [REDACTED] at USCCB, via [REDACTED]
7 regarding their application and the alternative
8 approach.

9 Was this your first communication with
10 USCCB regarding their application, to your
11 recollection?

12 A I, I would assume so, because normally
13 when I communicate with grantees, it's through the
14 project officer.

15 Q Okay.

16 A So . . .

17 Q And we see that on September -- if we
18 flip to Bates 537 to 538, it looks like a letter
19 also dated September 10, 2015, from [REDACTED]
20 [REDACTED] responding to and answering your
21 questions and addressed to you; and then we see at
22 Bates 532 to 534 is your follow-up on September 17
23 with additional questions.

24 Between the September 10 letter that you
25 received and your response on September 17, do you

1 recall having any other communications, whether in
 2 person, over the phone or via email, with USCCB
 3 regarding their grant application?

4 A What day of the week was September 10?
 5 It was a Thursday, seven days before.

6 Q The 17th was a Thursday. The 10th was
 7 also a Thursday, so I guess it was one week.

8 A It's possible that there may have been
 9 other communications. I just -- I can't remember
 10 for sure.

11 Q That's fine.

12 So on page 528, you note in your -- oh,
 13 wait. That is your question as rephrased, so I
 14 guess it is also on page 533.

15 You note that in their application, they
 16 included the language that we previously
 17 discussed, "subrecipients will not provide or
 18 refer for abortion, sterilization, or
 19 contraceptives," but that "per the FOA
 20 requirements, a grantee may not take any steps to
 21 discourage program participants from making a
 22 request for a service available under the program,
 23 nor may a grantee direct subcontractor to refrain
 24 from providing services when the subcontractor has
 25 no religious objection to providing services," and

1 FOA requirements also include not verbally
 2 restricting subgrantees from providing or
 3 referring for abortion, sterilization or
 4 artificial contraceptives?

5 A Well, per the FOA requirements as it's
 6 stated there, "a grantee may not take any steps to
 7 discourage program participants," so whether
 8 that's in writing or verbal, that would be
 9 considered -- that would be a step.

10 Q Okay, and we'll get more -- we'll get to
 11 that a little bit later in terms of the Memorandum
 12 of Understanding between USCCB and its
 13 subrecipients.

14 If we turn to 528 now, actually, to 529,
 15 there's an email to you and Maggie Wynne from
 16 ██████████ of USCCB, and she's thanking you "for
 17 your time this afternoon," and the email is sent
 18 at 5:42 p.m.

19 Did you have a meeting with USCCB on
 20 September 10, 2015?

21 A On September 10?

22 Q Oh, sorry. September 18, 2015.

23 A Well, in reading the email, it seems
 24 that there was some type of meeting or call. I
 25 can't know for sure. There was a mix, mixture of

1 you asked USCCB if it will be able to comply.

2 So what was it about the alternative
 3 approach that made you think USCCB would not be
 4 able to comply?

5 MR. TOMLINSON: Objection.

6 Foundation.

7 THE WITNESS: What was the
 8 question?

9 BY MS. BURROWS:

10 Q What, what was it about the language
 11 proposed that made you think USCCB would not be
 12 able to comply with the FOA?

13 MR. TOMLINSON: Same objection.

14 THE WITNESS: Well, in terms of
 15 where this email -- I mean the language or
 16 the sentence that's quoted and cited, it was
 17 in their original application but didn't meet
 18 the conditions of the -- full conditions of
 19 the Funding Opportunity Announcement, and so
 20 the intention of this question was to make
 21 sure that USCCB was, was agreeable in not
 22 just deleting the sentence but being in
 23 alignment with the FOA requirements.

24 BY MS. BURROWS:

25 Q And would being in alignment with the

1 email and phone conversations during this time
 2 period, mostly over email, but there were at least
 3 a couple of phone conversations.

4 Q Do you recall the substance of any of
 5 those phone conversations?

6 A It would have, it would have been all
 7 related to what was captured in the email.

8 Q So everything that is -- everything that
 9 would have been discussed on the phone is also
 10 reflected in email?

11 A Substantively, yes.

12 Q So if we look at USCCB's response to
 13 your question that we just discussed of whether
 14 they would be able to meet the FOA requirement,
 15 and that is on page 529, they say, "As indicated
 16 in our proposal in the first paragraph of page 13,
 17 each of USCCB's subcontractors are affiliates of
 18 either Catholic agencies or Bethany Christian
 19 Services," and later on, down below, they say,
 20 "Catholic agencies and Bethany Christian Services
 21 have a religious objection to providing abortion,
 22 sterilization, and artificial contraceptives.
 23 Thus, USCCB will be able to comply" . . .

24 When you read this response, did you
 25 have any concerns about the fact that all of

1 USCCB's -- according to USCCB's own statement, all
 2 of its subgrantees would have religious objections
 3 to providing those services?

4 A Well, in terms of the Funding
 5 Opportunity Announcement, the FOA left it to each
 6 grantee to determine their subrecipient network.
 7 As the government agency implementing the FOA, we
 8 can't direct grantees which subrecipients they
 9 should or should not enroll.

10 However, there are other conditions of
 11 the FOA that if -- so in USCCB's narrative, they
 12 did explain that they have these current
 13 relationships with these network of service
 14 providers, but through the course of the grant
 15 program, that they would identify additional
 16 organizations to potentially enroll in their
 17 network, and, and so it was -- so while we can't
 18 be directive of who a grantee chooses to --
 19 chooses as its subrecipients, there are conditions
 20 in the FOA that would prohibit any practices --
 21 let me see.

22 There is some language in here that may
 23 be helpful if we specifically reference.

24 Q I think there's language from the FOA on
 25 533 at the top. That's with the alternative

1 that under the alternative approach -- and we
 2 discussed this already a little bit. It intended
 3 to advise subrecipients to direct beneficiaries to
 4 their medical providers in the event they are
 5 seeking services to which USCCB and its subgrantee
 6 had a moral objection, and that they would provide
 7 referrals or direct beneficiaries to public
 8 health, public community health providers that
 9 were part of the public health system, and would
 10 not screen out any of the providers based on the
 11 range of services they provided.

12 And you, I believe, asked a question --
 13 let me just find it -- I believe it is on 530 --
 14 about USCCB's identification of these public
 15 health providers and screening out.

16 What prompted that question?

17 A In our review prior to making an award,
 18 we wanted to check that USCCB was able to fully
 19 comply with the conditions of the FOA in regard to
 20 their alternative approach, and so this was just a
 21 subset of questions to ensure that victims had
 22 access to information about the full range of
 23 services available to them; and, and because
 24 USCCB's alternative approach included connecting
 25 their clients to health and medical service

1 approach. It might not be in here. It may be
 2 back in the FOA. We can also find it on a break
 3 as well.

4 A Mm-hmm. There is -- so there's language
 5 in the Funding Opportunity Announcement that
 6 attempts to balance out a grantee's self-direction
 7 on who the subrecipients would be, but also
 8 prohibiting certain practices that would not meet
 9 the full conditions of the FOA.

10 Q And you said that in terms of the
 11 discussion with USCCB about its grant, that they
 12 indicated that throughout, you know, the course of
 13 administering the grant, they would enroll other
 14 grantees, subgrantees, possibly, right? Apart
 15 from the ones with religious objections that they
 16 identified here, correct?

17 A Well, I would want to refer to what was
 18 actually in their program narrative. From my
 19 recollection, I think it was just simply that they
 20 would identify other organizations and didn't
 21 necessarily specify one way or another in terms of
 22 whether the organizations would share their
 23 religious objections.

24 Q Okay.

25 So in this chain, USCCB also explains

1 providers within a week, we wanted to just
 2 double-check that it wasn't a restrictive list.

3 Q So this was confirming that in making
 4 those referrals, USCCB would not screen out, as
 5 you say, or refuse to refer to healthcare
 6 providers that provide "the full range of legally
 7 permissible health care services," correct, in
 8 your question?

9 A Correct.

10 Q And by "the full range of legally
 11 permissible health care services," did you mean to
 12 include contraception?

13 A Yes.

14 Q And access to abortion, apart from the
 15 funding restrictions that we previously discussed
 16 and obviously with the legally permissible caveat?

17 MR. TOMLINSON: Object to the form.

18 THE WITNESS: Can you --

19 BY MS. BURROWS:

20 Q Sure, and did, did you understand, in
 21 asking this question, that the full range of
 22 legally permissible health care services would
 23 include access to abortion?

24 A Yes.

25 Q Was this based on any concern that USCCB

1 or its subgrantees might only refer beneficiaries
 2 to health providers that shared USCCB's and its
 3 subgrantees' religious objections to abortion and
 4 contraception?

5 A We just wanted to double-check that they
 6 were able to meet the full conditions of the FOA,
 7 and the FOA, as we went through before, defines
 8 "comprehensive services," which would include --

9 Q I believe it says "family planning,"
 10 correct, and --

11 A "Not limited to exams, tests, prenatal
 12 services, and nondirective health-related
 13 counseling."

14 Q And yeah, "the full range of legally
 15 permissible gynecological and obstetric care,"
 16 which we already discussed would include abortion.

17 A Mm-hmm.

18 Q Did HHS request at any point that USCCB
 19 provide a list of the publicly -- of the public
 20 community health providers that it would be
 21 referring survivors -- or its grantees,
 22 presumably, would be referring -- subgrantees
 23 would be referring, referring survivors to?

24 A That would have been part of the regular
 25 monitoring of the grant.

1 Q Great. We'll get to that later. We'll
 2 discuss the monitoring.

3 A Sure.

4 Q And so on 527, I'm just going to confirm
 5 this as well, you mentioned a call -- or I'm not
 6 sure that it is you, actually. Someone mentioned
 7 a call from -- I believe it is [REDACTED] mentioned a
 8 call from "last Friday."

9 Do you recall the substance of that call
 10 at all? Was that presumably the call that we just
 11 discussed, the September 18, 2015 call, correct?

12 A Correct.

13 Q Okay, and you said that -- just to
 14 confirm, you said that the substance of that call
 15 would track what we, what we see in the email
 16 chain?

17 A Yes.

18 Q And you don't -- do you recall anything
 19 else on that call that would have been discussed
 20 related to USCCB's application or the alternative
 21 approach that we don't see in the email chain?

22 A I would not be able to recall if there
 23 were any other aspects that weren't captured in
 24 this email.

25 MS. BURROWS: We can take a break

1 now.
 2 THE VIDEOGRAPHER: Going off the
 3 record at 10:59.
 4 (Whereupon, a short recess was
 5 taken.)
 6 THE VIDEOGRAPHER: We are going
 7 back on the record at 11:15. This begins
 8 disc number 2.
 9 BY MS. AMIRI:
 10 Q So I believe when we left off, we were
 11 talking about what we had marked as Exhibit 4, and
 12 I just have a few more questions on that, and then
 13 we'll move along.
 14 If you turn to Bates 528, in your
 15 email -- I believe it is your email or your
 16 response that [REDACTED] -- or that [REDACTED] emailed
 17 out to [REDACTED] at USCCB. You state that -- at the
 18 bottom you state -- USCCB mentions "potential
 19 subrecipient referrals," and notes that if
 20 referrals are made, "they will likely require an
 21 adjustment" to the budget.
 22 Is this what we discussed before in
 23 terms of reallocating grantees' budgets in the
 24 event that beneficiaries were transferred -- are
 25 transferred from one subgrantee to another?

1 A That's correct.
 2 Q And how does that work in practice?
 3 A So in practice, we're in regular touch
 4 with the TVAP grantees in regard to funding needs
 5 that they may have that exceed what they initially
 6 anticipated in their program narrative.
 7 So, for example, if there is a major
 8 federal investigation and a large victim case load
 9 in a labor trafficking case happens, and that
 10 number is higher than what a grantee would have
 11 projected in their requests for their initial
 12 budget or their continuation budget, we would work
 13 with the grantees to address and adjust those
 14 funding needs.
 15 So often it's in the form of some type
 16 of supplemental grant award when there are those
 17 situations.
 18 Q And would you become aware of those
 19 situations through the monitoring process?
 20 A Yes.
 21 Q Yes. Would it involve USCCB reporting
 22 to you that a beneficiary had requested such
 23 services, and its subgrantee had refused to
 24 provide the services on religious grounds, and it
 25 was therefore requesting that the beneficiary be